

Decision Authorisation Form
(Definitive Map Modification Order)

Wildlife and Countryside Act 1981

Parish: Stubton / Westborough & Dry Doddington
Status Claimed: Byway Open to All Traffic
see attached plan dated 2/8/21

Application details:

Made by Mr Andrew Childs on behalf of the Trail Riders Fellowship on 19 February 2006

Application to upgrade Westborough & Dry Doddington Bridleway 12 (RB12), Stubton Footpaths 2 (FP2)& 3 (FP3) and Stubton Restricted Byway 7 (RB7) to byways open to all traffic and to claim a byway open to all traffic to run from RB7 to FP2.

Summary of evidence:

There has been a consistent depiction of the majority of the claimed route from 1806 although there has been a lack of primary documents to support public status.

BR12 was shown on the Westborough & Dry Doddington Inclosure Award 1771 as a private road. The 1910 Finance Act map showed the majority of BR12 as uncoloured indicating it to be public but does not show what public rights could be attributed that section. BR 12 is shown on all ordnance survey maps after 1824, the larger scale maps marking it as 'Coach Road'. The small scale ordnance survey maps show the route as an unmetalled road or minor road but these maps have disclaimers so such representation is not proof of public status.

FP2 and FP3 have been shown on small scale maps since 1806. There are 2 documents that could verify status. One is the 1837 Tithe Award which shows both paths as a 'Private Carriage Road'. The other is the Boston Newark and Sheffield Railway 1845 which marks the route bisecting the proposed railway line. The route is shown with a double pecked line but marked as a private carriage road and a private road in the book of reference. Subsequent maps show the routes with double pecked lines indicating an unfenced track but nothing to clarify status. The parish survey describes both as footpaths despite the southern and eastern continuations being of higher status. The railway bridge the paths cross is 12' wide which is indicative of a private occupation road.

RB7 is shown from 1827 but not on the 1837 Tithe Award which could either mean that it was of little significance at the time or that the majority of the route was on productive land that was tithed. It was not shown on the 1845 railway plan. The route was shown on its current line on the 1865 ordnance survey map and then subsequent maps from the same source. Like BR12 the map keys could describe it as an unmetalled road or an unfenced minor road. However, the parish

Signed: Karen Barke 
Senior Definitive Map Officer (For Director of Place) Date 25th August 2021

survey then describes it as a cart road but then questions whether it is a public carriage way since it is known to have been used as a footpath. RB7 was then marked on the Definitive Map as meeting FP2 which made it illegal to continue westwards other than on foot. A later diversion order involving FP2 showed RB7 meeting RB5 and RB6 on a different line to its legal one. The current missing link is due to the lower section of FP2 being extinguished.

Although there has been a route shown since 1824 there has neither been the consistent route nor status to justify the application to upgrade those existing rights of way. Furthermore, there is no substantial evidence to show the continuation of RB7 to meet Stubton RB5 and RB6. The application was to upgrade to byways open to all traffic but, following the Natural Environment and Rural Communities Act 2006 the application was made after the relevant date and failed to satisfy saving criteria. Such a failing meant that, were the application successful in proving higher rights, the routes would only become restricted byways. Since there is no substantial evidence to support such upgrades and addition it has now become academic.

(See attached ' *case summary: for determination*' for more details)

Legal Services advice sought
Recommendation of Legal Services

Yes/No

Recommendation by Tim Jenks, Definitive Map Officer

- a) That the Definitive Map Modification Order is not made.

I authorise the making of the order outlined above and detailed on that attached plan.

Signed: Karen Barke 
Senior Definitive Map Officer (For Director of Place)

Date 25th August 2021

CHECKLIST OF ACTIONS (see case file for full details):

Site Visit and survey undertaken	Yes
Landownership correctly identified and consulted	Identified but not consulted.
Dispensation obtained and notices posted (if applicable)	N/A
Parish & District Council consulted	Yes
Local County Councillor consulted	Yes
Full archival research undertaken with reference to checklist	Yes
User evidence summarised	Yes
Witnesses (if applicable)	N/A

Signed.....Tim Jenks

Dated.....18/8/21

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Senior Definitive Map Officer (For Director of Place)

Date 25th August 2021

