

**Objections received from South Bedburn Parish Council and Landowners.**

## **SOUTH BEDBURN PARISH COUNCIL – OBJECTION**

### **EDEN LODGE DMMO 6/19/041**

The application is to change the status of current Footpaths 14 and 15 (**Documents A, B, C and D**) to Bridleway on the basis that these footpaths are the same as the route from Crake Scar to Podgehole described in the 1760 Inclosure Award (**Documents E, F, G, H, I and J plus transcript in Section 13 of Report.**) **South Bedburn Parish Council wishes to OBJECT to the proposal on the following grounds:**

#### **1. Full legible transcript of 1760 Award Text**

The barrister acting for the Parish Council and land-owners state that it is crucial the Council as OMA addresses whether applications have been made in strict accordance with Section 14 of the 1981 Wildlife and Countryside Act and in particular the Court of Appeal's *Winchester* ruling regarding production of documents. The barrister points out full legible copies of the Inclosure Award and Plan do not accompany the application and that these documents should be provided.

The ROW Officer's response (**Appendix 3 - A1**) contends that extracts the Applicant has taken from the 1760 Inclosure Award are sufficient to make a decision and that there is no need for the Applicant to provide the full Award. The barrister has advised us, however, these Awards often contain significant details in different places on making up roads (including time limits for doing this) plus maintenance costs etc which can have a bearing on the status of a road. We therefore contend the full (legible) Award is needed in order to properly make any decision.

The original 146 page, 18<sup>th</sup> Century closely hand-written Award is available online (to those people who have online access – many of our residents still have no internet) but is virtually impossible for the ordinary person to read and we contend it is unreasonable of the Applicant and the Council to expect individual householders or landowners to go through this and similar documents without providing a full transcript into modern day English. We invite members of the Committee to try and read it themselves to fully understand the problem – See:

<https://iif.durham.ac.uk/index.html?manifest=t2mbn999679p&canvas=t2tvm40xv39g>

**We believe, that in order not to disadvantage interested parties and to enable proper decision making, full modern-day transcripts of these documents should accompany DMMO applications.**

#### **2. Route ever a highway as per Award text?**

The 1760 Award Plan is a map of the routes described in the written Award. (**Documents G plus extracts in Documents I & J.**)

**Document I** is taken from the 1884 copy of the 1760 Award Plan and is the one submitted by the Applicant with the original Evidence File. Everyone agrees the claimed route does **NOT**

show on this Plan. **(Report - Section 10.** *“The route is described within the Award text but not shown on the Copy of the Award Plan (1884.)”*

The Applicant has drawn the claimed route in red over the 1884 copy Award Plan **(Document I)** and labelled various points A to J. Points E to J are alleged to be the same as Footpaths 14 and 15.

The barrister notes that early maps (eg pre-Inclosures 1700 Armstrong County map, Carey 1809 map, Greenwood 1818 map or Hobson 1840 map) do not show the route. In addition, the ROW Report notes the Applicant has had to annotate the route on the 1857 1st Edition map (Document K) as the majority is missing.

The ROW Officer’s response to the argument that the route is not shown on pre 1897 maps **(Appendix 3 – A4)** is that these maps were for the “Nobility, Gentry and Clergy” - inferring these people would not have visited Podgehole Mill and there was therefore no need to show the route on such maps.

We believe this is speculation and the early maps contained many routes and features that the gentry and nobility may not have ordinarily used, but would still need to be aware of. We note applicants for other DMMOs do use these maps when it suits them.

**We contend that because the alleged route does not show on the 1884 copy Award Plan, (Document I) it may never have been made up and hence it cannot be proved beyond reasonable doubt that it ever became a highway in the context of the 1760 Award, especially as it does not appear on the early maps.**

### **3. Application route change?**

Whilst **Section 10 of the Application Report** agrees **NO** route is shown on the 1884 copy of the 1760 Award Plan the Report goes on to say, *‘However the applicant was able to view and photograph a relevant section of the original plan which does show a depiction of the route via a dash line that traverses the edges of allotments described in the award text starting from Crake Scar Road. (Document J.)*

We would ask members to look closely at the route now allegedly shown in **Document J** and compare it to the route originally applied for in **Document I. These routes are different.**

The difference between the route on the two documents is significant because if Footpaths 14 & 15 are the route described in the 1760 Award, it should join existing Bridleway 42 at point E on Crake Scar Road. **But the route shown on Document J does not go through point E - it goes higher up Crake Scar Road.**

Similarly the route between points E to F on **Document J** is completely different to that of **Document I** and the route approaching point H is also different on the two documents.

Unlike **Document I, Document J** only shows a section of the alleged route so we do not know whether anything appears between points A to E or beyond point G/H.

There is further confusion as to which route is being applied for in that Section 15 of the ROW Report refers to Document K and states, "***The application route has been annotated with a red line on this first edition map as the majority of the route is not depicted...***" but on Document K two routes are depicted (green and red) and it states "***Application route in green*** (not red as per the ROW Report) ***original Historic Route highlighted with red line.***) Exactly whether the green or the red route on Document K are what is claimed is not at all clear.

**We contend Documents I, J and K cannot be used to support the change in status of Footpaths 14 and 15 to a bridleway. We consider the information does not prove the route described in the 1760 Award and Plan was in the same location as Footpaths 14 and 15. We contend the routes shown in Documents I and J are different and that Document K confuses the situation further. We ask whether the route as originally applied for has been changed and if so whether it is fair or reasonable to make a decision on the basis of this report?**

#### **4. Appendix 1: Implications??**

This section is presumably incomplete eg

**Legal Implications**

Text

**Finance**

Text

**Human Rights**

Text

**Risk**

Text

We would, however, draw attention to financial implications both to the Council and landowners of these applications.

**We understand the Council is responsible for the financial cost of making a route suitable to become a bridleway eg installation of gates and suitable surface work. After 6 months we understand the landowner is responsible for maintenance costs, subject to a 25% council grant. The landowner may also be liable for injuries caused to path users and will probably need to take out public liability insurance. The NFU have advised us each case would need to be looked at individually but a public liability policy would likely cost between £100 and £500 per annum to each landowner.**

**We recognise that finance is not a valid reason to object to a DMMO, but subsequent financial implications do mean great care must be taken when making a decision on these matters to ensure landowners and rate payers are not disadvantaged and public money is spent wisely.**

## **5. Conclusion**

South Bedburn Parish Council objects to this application on the grounds that:

- **In order not to disadvantage interested parties and to enable proper decision making, full modern-day transcripts of Inclosure Acts should accompany any application.**
- **We contend that because the alleged route does not actually show on the 1884 copy Award Plan, (Document I) it may never have been made up and hence it cannot be proved beyond reasonable doubt that it ever became a highway in the context of the 1760 Award, especially as it does not appear on early maps.**
- **We contend Documents I, J and K cannot be used to support the change in status of Footpaths 14 and 15 to a bridleway. We consider the information does not prove the route described in the 1760 Award and Plan was in the same location as Footpaths 14 and 15. We contend the routes shown in Documents I and J are different and that Document K confuses the situation further. We ask whether the route as originally applied for has been changed and if so whether it is fair or reasonable to make a decision on the basis of this report.**
- **We recognise that finance is not a valid reason to object to a DMMO, but subsequent financial implications of approving DMMOs do mean great care must be taken when making a decision to ensure landowners and rate payers are not disadvantaged and public money is spent wisely.**

**We therefore ask that if there is any doubt over the route in question or the validity of the Report, this application be refused.**

*Parish Clerk, South Bedburn Parish Council*

April 2023

**From:** [REDACTED]  
**Sent:** 12 April 2023 17:29  
**To:** [REDACTED]  
**Subject:** Objection to definitive Map Application

For the attention of the Highways Committee Meeting to be held on Friday 21st April 2023

I refer to my original letter of objection dated 2/12/2019 in response to the consultation letter dated 19/11/2019 and to [REDACTED] objection email of 26 November 2019.

We have now had the opportunity to carry out further research into the application to upgrade Footpaths 14 and 15 to a bridleway and respond to the report submitted to the Highways Committee supporting the application. We object most strongly to this application.

Eden Lodge Farm operates as a successful small holding, comprising sheep, cattle and horses - one of which is a stallion. To upgrade the footpath to a bridleway and allow free access to horse riders would be putting them at great risk from coming into contact with the stallion. The farm has a small acreage and it is not possible to isolate the horses from the existing footpath.

Section 24 of the report refers to photographs enroute from the entrance way to Eden Lodge through fields to Crake Scar Lane (Document S, T and U.) Document T photograph is an incorrect representation of the route. The footpath passes direct from Eden Lodge land into West Plantation (see attached photograph) it does not go along the wall as shown in Document T. West Plantation is extremely difficult underfoot because of past mining activities and steep topography to the point where it can be impassable for walkers, let alone horses. (See, for example, photograph attached showing end of route from West Plantation). As a result path users tend to walk incorrectly across Eden Lodge fields on the West side of the West Plantation wall as shown in Document T photos. This is of serious concern if the route were to be made a bridleway as this is the main field where we keep many of the horses and stock.

Clearly there are potentially increased costs if the footpath was upgraded to a bridleway. I appreciate the council will carry the cost of replacing stiles with bridle gates and sorting out any surface issues. However, there will be a significant Insurance liability increase which will have to be paid annually by ourselves and there will also be maintenance costs for bridle gates, cutting back overhanging trees etc to a 2m bridleway width. At a time of significant austerity this will be very challenging.

We also refer to paragraph 22 of the report:- Ordnance survey 1976 and extract from the Coal Authority Map ( Document O ). It references the route was subject to open cast mining. Research with The Coal Authority has revealed that there was extensive drift mining throughout the centuries

in West Plantation. This is supported by maps provided for non-commercial use by The Coal Authority. The mines were abandoned in 1928, 1941 and 1950. The mining was extensive and fully supports why no route has been passable through West Plantation. It also explains why the ground underfoot is so dangerous. We strongly suggest that the council apply for the same maps which clearly show the extensive underground workings and the instability of West Plantation. This causes myself and [REDACTED] great concerns re major Health and Safety issue and liability.



