

**Application to be determined – 199803 Dringhouses & Woodthorpe – Mayfield  
Nature Reserve**

**DMMO application to record as public byway open to all traffic A-B on the map below**

Evidence supporting the application	Evidence refuting the application
<p>17 user evidence statements spanning 1948 to 1998, 16 alleging use for more than 20 years. Use breakdown is 8 on foot only, 7 on foot and cycle, 2 in a vehicle and on foot.</p>	<p>Vehicular access seems to have only been for maintenance access to the pond and claimed by 2 people only.</p>
<p>Nelson Lane is shown as at least a partially fenced track leading to either clay works or railway sidings on all the old maps available to CYC.</p>	<p>Until at least 1973 it was the access route to the entrance of either clay works or railway sidings. There is no suggestion of any other routes.</p>
	<p>1985 is the oldest map we have that shows any feature that could constitute a path but the alignment more closely matches the position of old sidings that had been lifted (running north west to south east) and do not follow expected desire lines (north to south). In addition, the railway boundary was still present</p>
	<p>1993 is the oldest map we have where it can be categorically shown that routes that could be foot/cycle paths cross the area of the application. By this time the railway boundary had been placed beside the current mainline, the sidings having been removed.</p>
	<p>The application route is a cul-de-sac but 10 user statements suggest that the route continued beyond what was claimed.</p>

**DMO Comment on the evidence as a whole**

Public rights of way normally link one public highway to another public highway. This application is for a cul-de-sac route. The evidence that the route is a cul-de-sac must be compelling to support that claim. It is not compelling when more than half the user statements suggest that it continued beyond the application route. As a consequence any order CYC makes must go beyond what was applied for and it is necessary to examine other available evidence.

The map evidence makes it clear that going beyond the application route was not possible until 1985 at the earliest. This means that the by the time the application was made there can only have been, at most, 13 years use. This is insufficient to allege a presumption of dedication under the Highways Act 1980.

Furthermore there is insufficient evidence that a route might have been dedicated at common law. Consequently, based on the evidence before CYC no public right of way can have come into being so no order needs to be made (by choosing not to make an order CYC is not prejudicing any future application to record public rights over this area).

<b>Consultation responses</b>
One response from the Ramblers was received supporting the application but offering no additional evidence

Have the relevant parish councils been consulted? (delete as appropriate)	<b>No</b> (the route is in a non-parished area)
Does the current evidence meet the statutory test for making the order? (delete as appropriate)	<b>No</b>
Will the order route be the same as the application route? (Attach a map showing the proposed order route) (delete as appropriate)	<b>Not applicable</b>
What status will the route have? (delete as appropriate)	<b>Not applicable</b>
Officer recommended determination- (delete as appropriate)	<b>Reject the application</b>
Officer recommended stance towards confirmation- (delete as appropriate)	<b>Not applicable</b>

<b>Implications</b>					
Crime & Disorder		Equalities		Other	
Human Resources		Legal		Highways	✓
Financial		ICT		Property	

<b>Affected Wards</b>					
All wards		Acomb		Bishopthorpe	
Clifton		Copmanthorpe		Dringhouses & Woodthorpe	✓
Fishergate		Fulford & Heslington		Guildhall	
Haxby & Wigginton		Heworth		Heworth Without	


Holgate		Hull Road		Huntington & New Earswick	
Micklegate		Osballdwick & Derwent		Rawcliffe & Clifton Without	
Rural West York		Strensall		Westfield	
Westfield					

<b>Dringhouses &amp; Woodthorpe Ward Councillor Comments</b>	
Cllr.	Stephen Fenton
Cllr Fenton sought clarification about the process and the area affected by the application.	
Cllr.	Ashley Mason
No comments received at this stage but Ward Councillors will have a further opportunity to comment during the statutory 6 week consultation period that follows the making of an order.	
Cllr.	Paula Widdowson
No comments received at this stage but Ward Councillors will have a further opportunity to comment during the statutory 6 week consultation period that follows the making of an order.	

<b>Executive Member for Transport Comments</b>	
Cllr.	A. D'Agorne
I accept that the application does not meet the requirements of the legislation and needs to be rejected but I would ask that the council considers facilitating the access through the land by some other arrangement.	

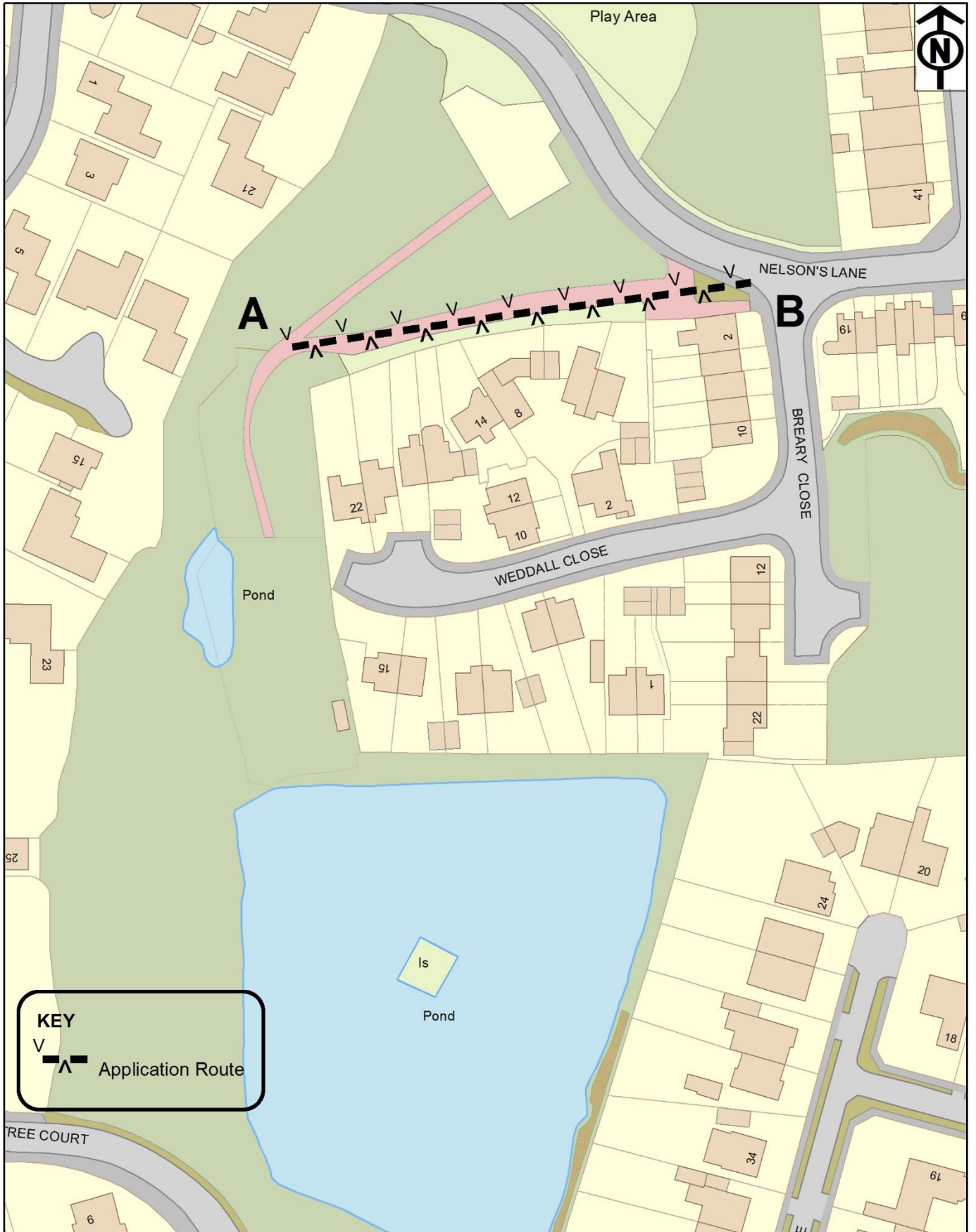
<b>Senior Officer Comments</b>	
James Gilchrist	<b>Assistant Director</b>
Having considered the available evidence I must conclude that it does not raise a reasonable allegation that public rights exist and must be rejected. I support the Executive Member for Transport's hope that access can be maintained by exploring other options open to the council	

Senior Officer Decision	<b>Reject the application</b>
Decision Date:	<b>17 December 2019</b>

Decision made by:	James Gilchrist, Assistant Director Transport Highways and Environment		
Contact details:	01904 551550 rightsofway@york.gov.uk		
On behalf of:	Neil Ferris, Corporate Director of Economy and Place		
To be implemented by:	Russell Varley, Definitive Map Officer		
On completion- signed off by:	Date:	17.12.19	
			
<p>James Gilchrist Assistant Director Transport, Highways and Environment</p>			

**Officer responsible for the report:**

Name:	Russell Varley	Telephone No.	01904 553691
Position:	Definitive Map Officer	e-mail	russell.varley@york.gov.uk
Team:	Transport Service		



**KEY**  
 V — Application Route



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### 199803 Dringhouses & Woodthorpe - Nelson's Lane

Scale 1:1,000	Drawn By:RJV	Date:3/12/19
Public Rights of Way	Reference:	Drawing No.

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