

# Decision Authorisation

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## **Definitive Map Modification Order Case 623 Claimed footpath between Manor Estate and The Broadway, Woodhall Spa**

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Case Reference: DMMO/623/Woodhall Spa

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### **The Modification Order Application**

1. The Modification Order Application (“the Application”) was made by the late Mrs Amarylis Midgley, who was a local resident and user of the Application Route, seeking the addition to the Definitive Map and Statement for the route between The Broadway and Manor Estate in the parish of Woodhall Spa, through the grounds of The National Golf Centre. The application was dated 16 January 2023 and it was received by the County Council the same day. The Plan which accompanied the Application shows the alleged footpath (“the application route”) as a red dashed line running from The Broadway (B1191) in a north-northwest direction along the eastern side of The National Golf Centre’s carpark, then changing to a northwest direction at the Golf Club’s buildings, running along the eastern edge of these. Whilst the application route marked on the Applicant’s plan falls short of Manor Estate, the Surveying Authority has investigated the route to extend to Manor Estate, whereupon Woodhall Spa Public Footpath 154 lies. The Application was made following the installation of electronic barriers by The National Golf Centre at The Broadway-end of the Application Route at some point between December 2021 and February 2022. A copy of the Application and accompanying plan can be viewed on pages Appendix 1/2-4 attached.
2. The following documents accompanied the Application:- Applicant’s explanatory notes for the number of documents submitted; Parish Council minutes on the production of “Woodhall Spa Walks” booklet dated 03 April 1984; copy of the front and back cover and relevant pages of the “Woodhall Spa Walks” booklet; letter from a parishioner to the Parish Council dated 11 August 1988 regarding the footpath; letter from the late Mr Hotchkin (former landowner) dated 27 September 1988

detailing reasons for the erection of signs; letter from Mr Hotchkin dated 24 May 1990 regarding a “Gentleman’s Agreement” over the footpath and accompanying Parish Council minutes acknowledging receipt of the same; letter from a parishioner referring to a further nearby lost footpath; and, a plan of the agricultural portion of the Petwood Estate sales detailed dated 1951.

3. The Applicant wrote a further letter to the County Council dated 16 February 2023 enclosing a number of additional documents for consideration:- hand drawn map of Woodhall Spa dated 1820; hand drawn map of Woodhall Spa dated 1845; map of Woodhall Spa dated 1850; photograph of page 23 of *“Taking the waters at Woodhall Spa: A pictorial history of a Lincolnshire health resort”* (2021); map of Woodhall Spa dated 1887; map of Woodhall Spa dated 1888; photograph of a map of Woodhall Spa dated as 1904; extract of page 128 of *“The book of Horncastle & Woodhall Spa”* (1983); photograph of a map of Woodhall Spa dated as 1938; and, a photograph of a map of Woodhall Spa dated as 1950.
4. Whilst the Application was formally registered by the County Council on 14 March 2023, the Application prioritisation was appealed by the Applicant on 20 April 2023. Following consideration by the Definitive Map and Statement of Public Rights of Way Sub-Committee on 03 July 2023, the appeal was successful and the Application was therefore raised in the Priority Schedule.
5. The Landowner’s Solicitors wrote to the County Council on 16 August 2024 objecting to the Application and provided the following documents:- newspaper cutting dated 07 October 1988; letter from Mr Hotchkin dated 27 September 1988; and, letter from the Clerk to the Parish Council dated 23 September 1988.
6. Following the County Council’s consultation with the landowner, their Legal Representatives wrote a further letter to the County Council dated 17 January 2025 enclosing additional documentation by way of a photograph of the electronic gate and signage, and, a letter from Bridge McFarland Solicitors to Mrs Hotchkin dated 06 February 2021 highlighting rights within a Deed of Grant that were entered into at the time of the sale of Woodhall Spa Golf Club in 1995, together with a copy of the Deed of Variation of Easement.
7. The Application Route is covered by four registered titles and are all linked to entities based at The National Golf Centre. The transfers and registrations date back to 1995, which is the year that the late Mr Hotchkin sold Woodhall Spa Golf Club to The National Golf Centre. The Title LL271390 includes a Deed of Grant and a Deed of Variation that shows rights of passage over parts of the Application Route, with a plan showing the route supporting the existence of rights over the land, albeit not public rights. It does, however, acknowledge the route. The Landowner Evidence Form also acknowledges the route and confirms the leasehold arrangement, although public status is disputed.

## **Summary of evidence**

8. A full analysis of the evidence submitted or discovered in respect of the Application can be reviewed within the *Analysis of the Evidence and Recommendation Report* dated 04 August 2025. In addition to the evidence outlined above, the Applicant also provided a total of 51 User Evidence Forms representative of 53 users in support of the Application.
9. The documentary evidence, namely Ordnance Survey Maps of several series dating from 1824 to 1969, deposited railway plans from 1853, finance act records from 1910, historical books and informative maps from 1920 to 1951, parish and council records from 1936 to 1984, aerial and satellite imagery from 1971 to 2022, and correspondence and legal documents from 1988 to 2012, consistently show the physical existence of the application route. However, these do not demonstrate the existence of a historical public right of way as most sources imply the route was a private occupation road or explicitly disclaim public rights.
10. When establishing if a public right of way is *reasonably alleged* to have arisen by deemed declaration under section 31(1) of the Highways Act 1980 (“the 1980 Act”), a date on which the public’s right to use the application route had been brought into question must be identified to enable the 20-year statutory term to be calculated retrospectively from that date. Whilst an earlier date of bringing into question was identified as being 1988 following the erection of signs to deter public use of the application route and a “Gentleman’s Agreement” was subsequently agreed, a railway line crossed the application route which was not fully discontinued until 1971, therefore encroaching into this potential earlier statutory period. The public’s use of the route had been interrupted by the statutory protection of the railway and therefore prevented the establishment of a public right of way.
11. The National Golf Centre later installed electronic barriers along the Application Route, near to The Broadway in late-2021 to early-2022 preventing pedestrian access, along with the erection of several private property signs. Whilst the exact date of installation of these signs and barriers could not be determined, based on the evidence available within the Application, Landowner correspondence, user evidence and historical research, the Surveying Authority is of the opinion that the potential date of bringing into question, in respect of the most recent set of signs and barriers, is December 2021 to February 2022.
12. Section 31(6) of the 1980 Act suggests that when a landowner submits a highways statement and map to the local authority, followed by a highways declaration, it formally records which public rights of way exist over their land. If the declaration states that no additional rights of way have been dedicated, this can be evidence that the landowner did not intend to dedicate any further public rights of way during that period. A highways statement and map were made by Robert Bell & Company, Horncastle, on behalf of Woodhall Spa Land Holdings Co Ltd, on 13

October 2020 which was deposited with Lincolnshire County Council on 14 October 2020. This was followed by a highways declaration made on 20 October 2020, and was lodged with the County Council on 22 October 2020 in compliance with the 1980 Act. The statement and map show a public footpath to the east of the application route, which had been dedicated over the land, together with a statement confirming that no other ways had been dedicated over their land. No routes were marked on the map in the location of the Application Route therefore Woodhall Spa Land Holdings Co Ltd have not expressly dedicated the Application Route as a public right of way or highway within the deposit. It only shows that there was no intention to dedicate over the 8-day period between the statement and declaration.

13. As the map has not been marked to show the route as a public right of way, the statement confirms that no other ways (including the Application Route) have been dedicated over Woodhall Spa Land Holdings Co Ltd's land, and that the notice of the making of the map and statement was posted on the County Council's website for public inspection in compliance with the regulations, the date for bringing into question would therefore be 14 October 2020 as this was the date on which the statement and map were deposited. The Surveying Authority will use 14 October 2020 as the date of bringing into question and this established 20-year statutory term 14 October 2000 to 14 October 2020 is referred to hereafter as "the relevant statutory term".
14. The user evidence suggests that there were 26 instances of 20 years' *actual use and enjoyment* of the Application Route on foot by the *public at large* and *as of right* spanning the whole of the relevant statutory term. There are a further 12 instances of *actual use and enjoyment* of the Application Route by the *public at large* and *as of right* covering parts of the relevant statutory term. The frequency of use of the Application Route varied from more than once a day to less than monthly, with 2 witnesses claiming to have used the route more than daily, 3 witnesses had used it daily, 15 used it more than once a week, 4 used it weekly, 7 used it more than once a month, 3 used it monthly, and 6 used it less than monthly.
15. The user evidence suggests that there was 1 instance of 20 years' *actual use and enjoyment* of the Application Route on bicycle by the *public at large* and *as of right* spanning the whole of the relevant statutory term. There are a further 9 instances of *actual use and enjoyment* of the Application Route by the *public at large* and *as of right* covering parts of the relevant statutory term. The frequency of use of the Application Route varied from more than once a day to more than once a month, with 1 witness claiming to have used the route on bicycle more than daily, 5 used it more than once a week, 2 used it weekly and a further 2 used it more than once a month.
16. The evidence suggests that the use of the Application Route by the user witnesses spanning the relevant statutory term was *without interruption* in the meaning of section 31(1) of the 1980 Act.

17. There is a distinct lack of evidence on the part of The National Golf Centre during the statutory term to support that they had no intention of dedicating the route as a public right of way.

## **Recommendation**

18. It is my view that the evidence demonstrates that the Application Route has been subject to sufficient *use and enjoyment* on foot by the *public at large, as of right*, and *without interruption*, spanning the statutory term 14 October 2000 to 14 October 2020 to *reasonably allege* that a public footpath has arisen by deemed dedication under section 31(1) of the Highways Act 1980.
19. It is considered that the level of qualifying public use of the Application Route with bicycles is too low to *reasonably allege* that a public right of way of a higher classification than public footpath has arisen either by statutory dedication over the relevant statutory term, or by common law dedication over the period 1995 to 2020, or any part of this period.
20. **I, therefore, recommend that a definitive map modification order be made under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement for the Woodhall Spa Urban District a public footpath along the length of the Application Route, as shown on at Appendix 6/4 attached.**
21. Paragraph 4.16 of the Department for Environment, Food and Rural Affairs' *Rights of Way Circular (1/09)*, which provides guidance for surveying authorities, suggests that a definitive map modification order should include information about the width that is to be added to a definitive map and statement.
22. Measurements in respect of widths were taken during the site visit of 12 March 2025 and these have formed the basis for the recommended widths as detailed below. These should be considered alongside the plan located at Appendix 6/4 attached.
- a. 3.0 metres should be recorded starting from The Broadway, extending in a north-northwest direction for approximately 130 metres, then continuing in a northwest direction for a further 40 metres until the point where the footway forks (point A to B).
  - b. From this junction, the route continues in a northwest direction towards Manor Estate, with the width varying between 2.7 metres at its narrowest point, and up to 5.9 metres where it meets Manor Estate / Woodhall Spa Public Footpath 154 (points B to F) as follows:-
    - i. Between points B (2.7 metres) and C, for a distance of approximately 12 metres, the width gradually increases to 3.4 metres.

- ii. Between points C and D (a distance of approximately 30 metres), the width gradually increases to 4.1 metres before decreasing to a width of 3.1 metres (over approximately 5 metres) at point E.
  - iii. Between points E and F, the width gradually increases to 5.9 metres over a distance of approximately 60 metres.
23. Whilst it has not been possible to determine the exact date of the installation of the bollards and wooden swing gate seen during the site visits, following examination of the evidence it is likely that the bollards have been present during the entirety of the statutory term, therefore, they constitute a limitation to warrant inclusion in an order. Based on the evidence seen, as the wooden swing gate was erected at some point between 2005 and 2009, it has not been present for the entirety of the relevant statutory period and therefore the gate should not be included as a limitation in the order.

*Jennifer Kelly*

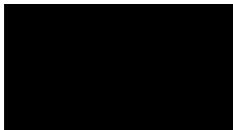
**Definitive Map Officer  
Countryside Services  
05 August 2025**

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## **Authorisation**

I authorise \_\_\_\_\_ (*delete as appropriate*) the making of a definitive map modification for the route applied for, which is shown in the plan at Appendix 6/4 attached, in line with the above recommendation.

**Signed:**



**Name:** Andrew Pickwell

**Job title:** Senior Definitive Map Officer

**Dated:** 21 August 2025

## APPLICATION FOR A MODIFICATION ORDER

### WILDLIFE AND COUNTRYSIDE ACT 1981 DEFINITIVE MAP MODIFICATION ORDERS

(This form to be completed by the applicant and returned to Lincolnshire County Council)

**To: Definitive Map Officer, Lincolnshire County Council, Countryside Services, County Offices,  
Newland, Lincoln, LN1 1YL**

#### APPLICATION

I / ~~we~~ MRS AMARILIS JANET FAITH MIOGLEY  
of 19, STIXWOLD RD., WOODHALL SPA Postcode LN10 6PH

hereby apply for an order under Section 53 of the Wildlife and Countryside Act, 1981, to modify the  
Definitive Map and Statement for the area by:

*\*(Delete any of the following sections which do not apply)*

~~\*Deleting the footpath / bridleway / restricted byway / byway open to all traffic (delete as appropriate)~~

From..... To.....

Parish of..... Parish of.....

OR

~~\*Adding the footpath / bridleway / restricted byway / byway open to all traffic (delete as appropriate)~~

From MANOR RD To THE BROADWAY

Parish of WOODHALL SPA Parish of WOODHALL SPA

OR

~~\*Upgrading / Downgrading the footpath / bridleway / restricted byway / byway open to all traffic to a  
footpath / bridleway / restricted byway / byway open to all traffic (delete as appropriate)~~

From..... To.....

Parish of..... Parish of.....

OR

~~\*Varying the particulars of the footpath / bridleway / restricted byway / byway open to all traffic (delete as  
appropriate)~~

From..... To.....

Parish of..... Parish of.....

By amending to.....

**AND** shown on the map attached to this form.



**IMPORTANT: PLEASE READ**

Legislation requires the County Council to keep a register of Definitive Map Modification Order ("DMMO") applications, and to make this available for inspection by the public on its website and at its offices. For each application the register must contain, amongst other details, a copy of the Application Form and details of the Applicant's name and address. The County Council will redact the signature of the Applicant on all DMMO documents published on its website. However, should the Applicant believe that the inclusion or retention of their name and address on the register would, or would be likely to, cause substantial unwarranted damage or distress to the Applicant or to another person, and has satisfied the Council that this is the case, the Council will exclude (or remove) their name and address from any documents contained, or to be contained, on the register.

**PERSONAL DATA**

Please refer to the Customer Privacy Notice (available at [www.lincolnshire.gov.uk/privacy](http://www.lincolnshire.gov.uk/privacy)) for information on how the County Council processes your personal data. If you need this information in an alternative format, please contact the section on 01522 782070 or by email at [countryside\\_access@lincolnshire.gov.uk](mailto:countryside_access@lincolnshire.gov.uk)

**SUPPORTING EVIDENCE**

I / We attach copies of the documentary and ~~user~~ user evidence in support of this application, as listed below.

Signed 

Date 16/01/2023

**User Evidence**

I enclose 42. User Evidence Forms in support of this application.

**AND/OR** (delete as appropriate)**Documentary Evidence** (please list below)

- DOCUMENT 1 - PARISH COUNCIL MINUTES ON THE PRODUCTION OF WOODHALL SPA WALKS BOOKLET 1984
- DOCUMENT 2 - COPY OF FRONT AND BACK COVER AND RELEVANT PAGES IN BOOKLET
- DOC. 3 - LETTER FROM MR BAYLES TO THE PARISH COUNCIL AUG 1988 RE FOOTPATH
- DOC 4 - RESPONSE FROM OWNER OF LAND TO PARISH COUNCIL RE: ABOVE LETTER
- DOC 5 - LETTER FROM LAND OWNER RE: 'GENTLEMAN'S AGREEMENT' ON FOOTPATH AND P.C. MINUTES SHOWING RECEIPT OF SAME
- DOC. 6 - LETTER REFERRING TO ANOTHER NEARBY LOST FOOTPATH
- DOC 7 - EXPLANATORY DETAILS SETTING ALL ABOVE INTO CONTEXT (ALSO USED AS PART OF PERSONAL EVIDENCE)
- MAP OF WOODHALL SPA, 1951, SHOWING FOOT PATH.





Please mark on the map the route of the right of way claimed

Signed: 

Print Name: **AMARYUS J.F. MIDGLEY**

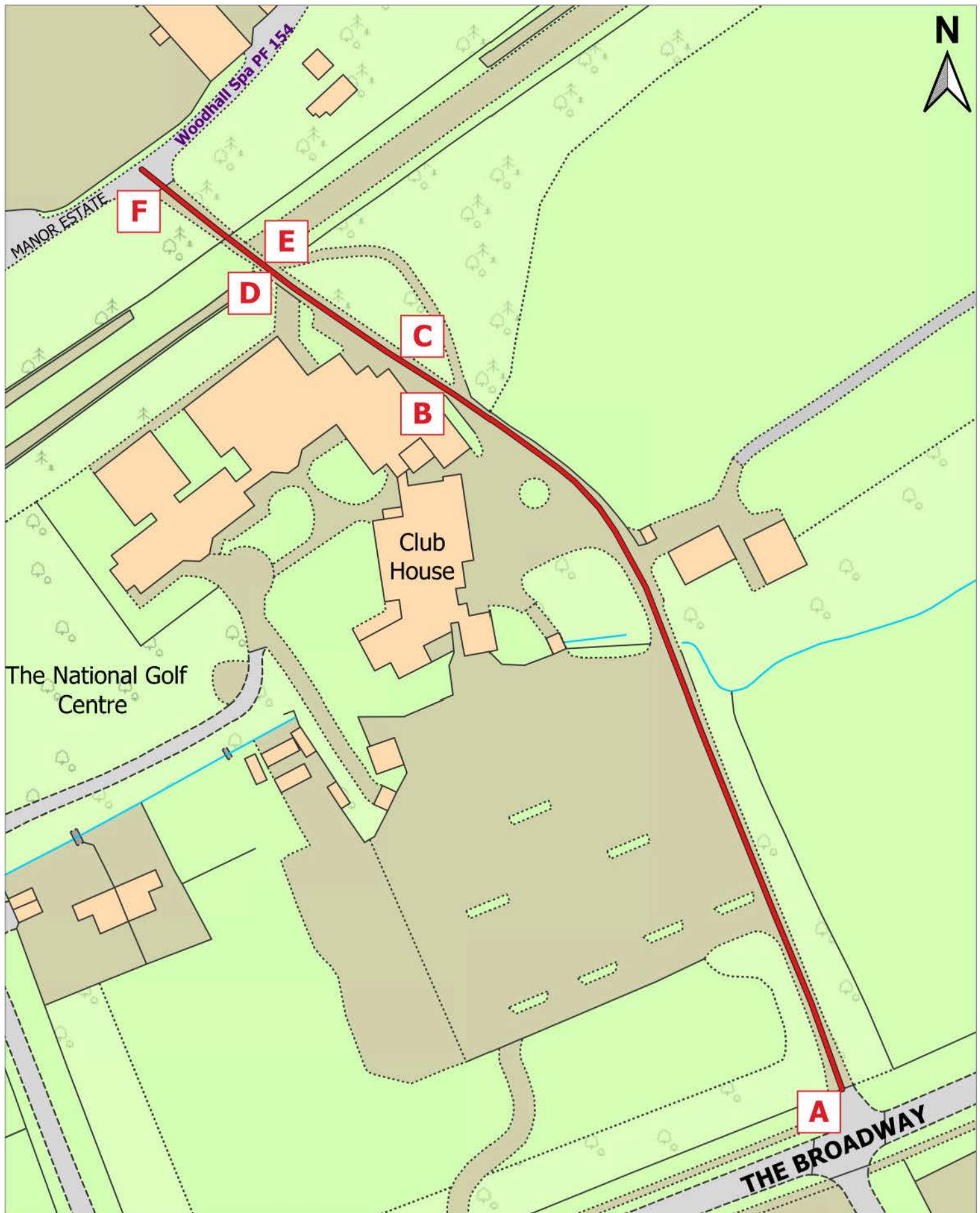
Date: **16/07/2023**

Lincolnshire County Council, County Offices, Newland, Lincoln, LN1 1YL

**Legend**

-  Public Footpath
-  Public Bridleway
-  Restricted Byway
-  Byway Open to All Traffic





Lincolnshire County Council, County Offices, Newland, Lincoln, LN1 1YL

**Plan showing recommended widths**

A plan showing the recommended widths in the event an Order be made

Scale: 1:1,000 @ A4

**Legend**

 Application Route