



Order Decision

by James Blackwell LLB (Hons) PGDip, Solicitor

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 05 November 2025

Order Ref: ROW/3345516

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (WCA 1981) and is known as the Lincolnshire County Council, Amendment of County of Lincoln (Parts of Lindsey), Gainsborough Rural District Definitive Map and Statement, (Addition of Glentworth Public Bridleway Number 1209 and Harpswell Bridleway Number 1209), Definitive Map Modification Order 2023.
- The Order is dated 6 April 2023 and proposes to modify the Definitive Map and Statement for the area by adding a public bridleway as shown in the Order plan and described in the Order Schedule.
- There was 1 objection when Lincolnshire County Council ('the Council') submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed.

Preliminary Matters

1. The original Order application was made by Glentworth Parish Council on 14 May 2014. The Order concerns the addition of a bridleway which connects Homeyard Farm in Glentworth to Hermitage Farm in Harpswell, between points A-B-C-D-F shown on the Order map. There is one objection to the Order which remains outstanding.
2. The objectors question the validity of the Order and say it was not properly served on all landowners. Whilst little evidence has been presented on this point, there is nothing before me to suggest any landowner has not been afforded the opportunity to engage fully with the process. I am therefore satisfied that no landowner has been unduly prejudiced as a result of any such issues.
3. A landowner deposit or declaration made under s31(6) of the Highways Act 1980 (HA 1980) is only effective in precluding the dedication of public rights of way from the date it is made, and cannot apply retrospectively. In turn, any such declaration would not affect the status of any pre-existing public rights of way.
4. Whilst the inclusion of a public right of way on the Council's Definitive Map and Statement (DMS) is conclusive evidence of its existence, this does not prevent there being additional unrecorded rights over the route in question. Moreover, notwithstanding the content of an application for a definitive map modification order (DMMO), an Order Making Authority (OMA) can make changes to a proposed order, including the route alignment and its status, if those changes are supported by evidence.

Main Issue

5. In this instance, the Order has been made under Section 53(2)(b) of the WCA 1981 on the basis of an event specified in Section 53(3)(c)(i), namely the discovery of evidence which shows that a right of way subsists, or is reasonably alleged to subsist, which is not currently shown in the Council's DMS.

6. Whilst a DMMO can be made on the basis that a public right of way is reasonably alleged to subsist, the standard of proof is higher for the Order to be confirmed. At this stage, evidence is required to show, on the balance of probability, that a right of way subsists.
7. Accordingly, to confirm the Order, I must be satisfied on the balance of probability, that a bridleway subsists over the claimed route.

Reasons

8. The evidence in support of the Order is primarily made up of historic documentary evidence, which means the provisions of s32 of the HA 1980 are relevant. When considering whether dedication of a public right of way has occurred, these provisions require me to take into consideration any map, plan or history of the locality tendered in evidence, or any other relevant document provided, and give these documents such weight as appropriate in the circumstances.

Commercial Maps

9. Various historic maps depict a way which broadly aligns with the whole of, or parts of, the Order route. Both Armstrong's Map (1779) and Cary's Map (1787) show a route roughly in the location of the claimed route, although given their small scale, these maps are not overly helpful. Bryant's map (1828) shows only the northern part of the Order route within Harpswell, which is labelled "*Bridle Way*", however once it reaches the parish boundary with Glentworth, the route turns westwards. The section of the Order route within Glentworth is not shown. The same is true of the route shown on Greenwood's map (1828), which in that case, is referred to as a "*Cross Road*".
10. Whilst Bartholomew's map (1902) does not show the Order route, later versions in 1920 and 1942 both show the whole of the route denoted by a single pecked line. Such routes are referenced in the key as "*Footpaths & Bridlepaths*", however the two do not appear to be distinguished from one another.
11. Together, these maps do suggest that a physical route existed along much of the Order route, particularly the section of the route which falls within Harpswell, since the early 19th century, and maybe even before. However, in themselves, they are not conclusive of public rights.

Ordnance Survey Maps

12. Ordnance Survey maps as far back as 1820 also show the Order route. The route again appears on subsequent editions in 1824-1841, 1885, 1905, 1907, 1923-1924 and 1970. The description of the route varies from edition to edition, and is sometimes referenced "*B.R*", sometimes "*F.P*", sometimes "*Footpath*" and sometimes "*Bridle & Footpaths*". However, it appears that footpaths and bridleways are not always distinguished from one another on many versions of these maps, so where the route is labelled as "*footpath*" or similar, this is not necessarily indicative of status.
13. In any event, Ordnance Survey maps are not demonstrative of public rights. However, much like the commercial maps referenced above, they are still helpful in demonstrating the physical existence of the Order route throughout much of the 19th and early 20th centuries.

Railway Plans

14. In 1883, proposals for a new railway line between Hull and Lincoln encompassed land within Harpswell and Glentworth. Plans associated with the survey of land affected by the proposed railway show part of the Order route denoted by a double pecked line. This extends along the whole of the route which falls within the parish of Harpswell. Whilst the route is also shown to continue into Glentworth, much of the section within Glentworth falls beyond the limit of deviation of the proposed railway, and is therefore not depicted.
15. In the associated Book of Reference for Harpswell, descriptions of the parcels of affected land include reference to “*public footpath, bridle path*” and “*public footpath and bridle way*”. For each of these parcels, the “*Surveyor of Highways*” is listed among the owners. In the Book of Reference for Glentworth, the description of affected land also includes reference to “*public footpath, and bridle road*”.
16. At this time, an Act of Parliament was needed to construct a new railway, and these records were prepared in conjunction with this formal legal process. Given their formality, these records are persuasive evidence of public rights over the claimed route, at least insofar as it is depicted on these plans.

Finance Act Records

17. The Finance Act 1910 introduced a new land tax which was levied on the basis of incremental land value. As part of its implementation, a detailed survey of land was undertaken across the country to establish the baseline value of individual plots (or hereditaments). When determining value, deductions were made for any public rights of way which crossed the respective hereditament.
18. An Ordnance Survey base map was used as part of this process, which shows the whole of the Order route marked as a double pecked line and marked as “*B.R*”. Three separate hereditaments were shown to be affected: two in Harpswell numbered 118 and 122; and one in Glentworth numbered 76. Deductions were made against each of these hereditaments for public rights of way, which appear to correspond directly with the Order route. In the associated Field Books for hereditaments 122 and 76, the public right of way is described as “*Bridle Road*” (although the Field Book for no. 118 has not been provided).
19. These documents are demonstrative of the existence of the Order route at the time the survey was carried out and also provide good evidence of the public rights which were considered to exist over the route at that time.

Sales Particulars

20. There are a number of plans and maps associated with historic sales records and particulars which also denote the claimed route. A plan included in the sales particulars for an estate belonging to the Earl of Scarborough in 1917 depicts the Order route, but only insofar as it extends across the parish of Glentworth. A Harpswell Estate plan dated 1918, again related to the sale of a large estate in Harpswell, depicts the whole of the Order route. On this plan, the route is labelled “*B.R*”. Auction particulars for the sale of Villa Farm in 1947 also denote part of the Order route, which is again labelled “*B.R*”. On this plan, the full extent of the route within Glentworth is shown, but it is only shown partly within the Harpswell parish.

21. Whilst again, these plans and documents do not demonstrate the existence of public rights over the claimed route, they are nonetheless helpful in illustrating its physical presence. They also help evidence the perceived status of the route, or parts of the route, during these times.

Parish Survey Records

22. The submitted Parish Survey Records for Glentworth do not include a plan marked with the paths and ways which were surveyed by the Parish. However, the survey sheets associated with these records appear to suggest the claimed route was included among the routes surveyed by Glentworth Parish Council in 1951 (referenced as path no. 5). The route is described on the survey sheet as "*Bridal Road to Harpswell*" and is said to be "*overgrown with rubbish*". The accompanying letter says the route is no longer used and should be closed.
23. Similarly, the survey sheets associated with the Harpswell Parish Survey Records appear to show that the Order route was included among the routes surveyed by Harpswell Parish Council in 1952. The route is described as "*Bridle Road to Glentworth*" and again notes it has not been used for many years. As above, the route is recommended to be extinguished.
24. These documents provide further evidence that the Order route was reputed to have been a bridleway in the past, even if it was no longer used in this way at the time the surveys were carried out. Whilst the objectors claim these letters suggest any public right of way along the Order route may have been extinguished, there is little evidence to demonstrate the route was ever formally stopped up.

Objections

25. The objectors raise issue with the alignment of the claimed route and claim it varies between pieces of historical documentation. They also say a consistent path has never been visible on the ground and that any historic route has meandered across open agricultural land. However, the Order route is based on Ordnance Survey mapping, which is considered to provide a reliable representation of physically available routes at the time they were drawn up. The railway plans and Finance Act records are consistent with this OS mapping, which lends further credence to the Order route described. I am therefore satisfied that the route, if shown to have been dedicated, is represented accurately on the Order map, and that the evidence supports this. For completeness, whilst the Order route is not shown on the OS map in 1962, this is not unexpected, given the evidence suggests the route was no longer used by this point.
26. The objectors suggest any historic use was permissive and not "*as of right*". However, there is little evidence before me to corroborate this assertion. The objectors also point to physical obstacles along the route, which would now preclude it from being used. However, physical barriers would not affect the existence of a public right of way, provided it has been dedicated in the past and not been extinguished or stopped up since.
27. The objectors also raise numerous issues with the user evidence and claim it is insufficient to establish presumed dedication of the Order route under s31 of the HA Act. This point is not disputed – the OMA is reliant on historic documentary evidence to demonstrate dedication of the Order route.

Conclusions on Evidence

28. Whilst no single piece of evidence is conclusive, collectively, the evidence provides a strong indication that the Order route existed historically. Parts of the route have been depicted on various maps since the early 19th century, and possibly even before. Since this time, the route consistently appears on various commercial maps, Ordnance Survey maps and sales particulars.
29. Whilst the Order route is not referenced in any enclosure awards or tithe documentation pertaining to the land affected by the Order route, the absence of the Order route within these records does not mean it did not exist.
30. Indeed, the Railway Plans, which provide strong evidence of public rights, indicate that the route was considered a bridleway in 1883. This status is compounded by the Finance Act records in or around 1910, when the route was still described in this way. These documents provide a clear indication that the Order route subsisted at these times, and that this was known and accepted by the landowners.
31. Whilst the Parish Survey records suggest the route was no longer used by 1951, these records support the contention that a bridleway had previously existed over the claimed route.
32. On this basis, collectively, I am satisfied that the evidence demonstrates, on the balance of probability, that a public right of way subsisted over the Order route throughout much of the 19th century and the earlier part of the 20th century. Whilst descriptions of the route do vary, the evidence mostly points to bridleway status. Noting the legal maxim "*once a highway, always a highway*", the bridleway would continue to subsist unless formally stopped up or extinguished. In the absence of evidence to suggest any formal extinguishment, the Order route would therefore still subsist as a bridleway, even if it is no longer used in this way.
33. It is not possible to determine the width of the bridleway from the historic evidence. However, given the open nature of the Order route, I consider that the OMA's stated width of three metres is reasonable and appropriate. This would allow two horse riders to safely pass one another when meeting head on.
34. Notwithstanding that the northernmost section of the Order route was not originally shown on the application, the majority of the documents referred to do show the Order route connecting with Common Lane to the north. It was therefore reasonable and appropriate for the OMA to extend the proposed Order route in this way.

Other Matters

35. The objectors raise a number of other issues in connection with the claimed route, including farm safety, security and privacy. There is also reference to a prospective solar development in the vicinity of the Order route. Whilst these points may be relevant to public path orders made under the HA 1980, the Order application in this instance has been made under The Wildlife and Countryside Act 1981. This Act is concerned solely with ascertaining the existence of rights, but not the respective merits of those rights. In turn, these issues are not relevant to the outcome of the Order application.

Conclusion

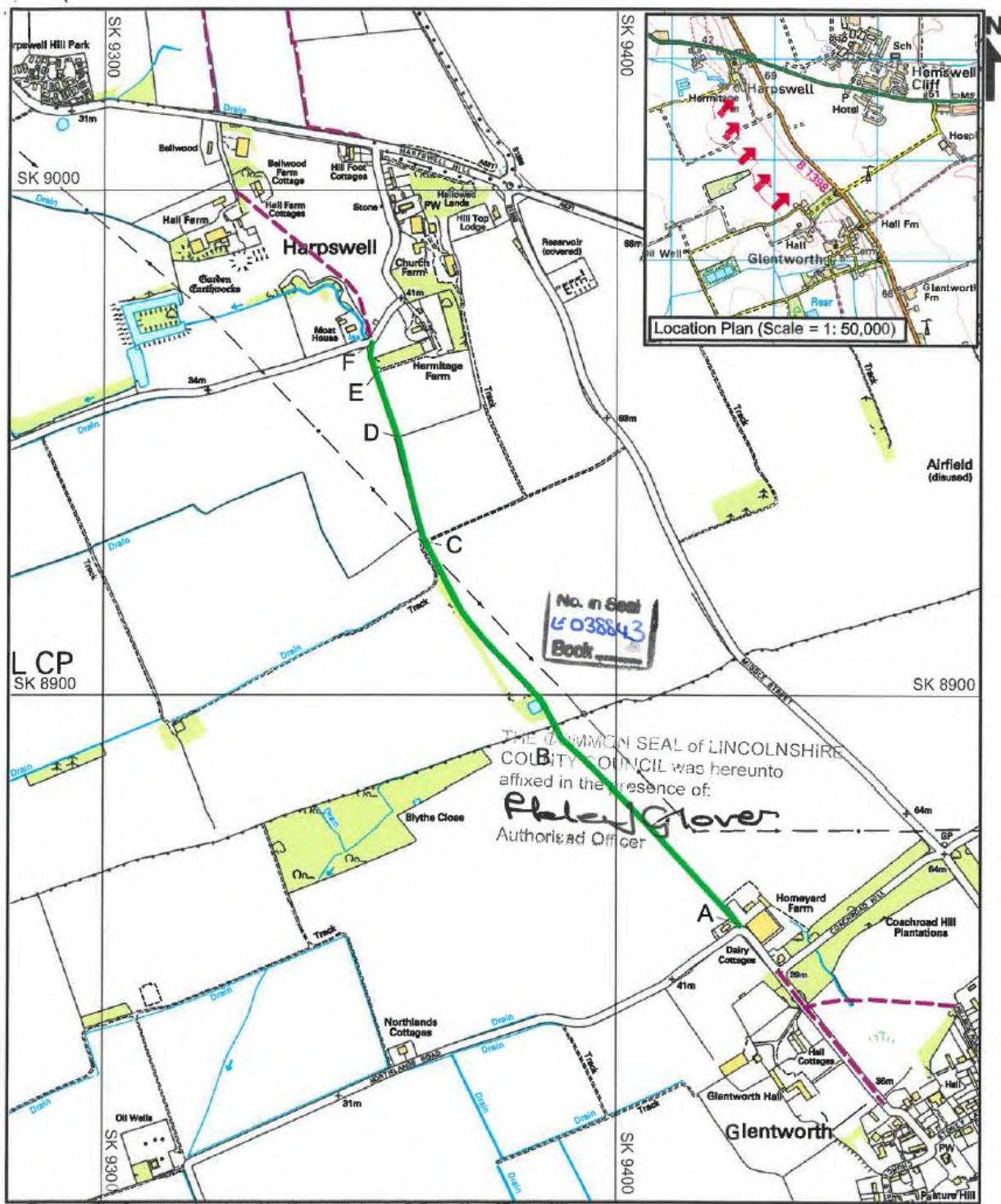
36. Based on the evidence before me, I am satisfied, on the balance of probability, that a bridleway subsists over the claimed route. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed.

Formal Decision

37. I confirm the Order.

James Blackwell

Inspector



This map is for information only and should not be regarded as the Definitive Map of Rights of Way.

GLENTWORTH / HARPSWELL
Addition of Public Bridleway No.1209
between Homeyard Farm (Glentworth)
and Hermitage Lodge (Harpswell)



Drawing Ref: 2022/017/DMMO371/A4

Date: 20/12/2022

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Key:

Unaffected public footpath - - -

Addition of:
Glentworth Public Bridleway No.1209 A-B
Harpswell Public Bridleway No.1209 B-C-D-E-F

Scale: 1:10,000 (@A4)

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SOR/1/pg.3