



Order Decision

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

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

Decision date: 03 December 2025

Order Ref: ROW/3336884

- This Order is made under Section 53 (2) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Lincolnshire County Council Amendment of Kesteven County Council (Rural District of West Kesteven) Definitive Map and Statement (Addition of Ingoldsby Public Footpath 1194) Definitive Map Modification Order 2022.
- The Order is dated 4 January 2022 and proposes to modify the Definitive Map and Statement for the area by adding a Public Footpath as shown in the Order plan and described in the Order Schedule.
- There were two objections outstanding when the Order was submitted to the Secretary of State. Both have since been formally withdrawn.

Summary of Decision: The Order is Confirmed.

Preliminary Matters

1. The application to add a public footpath between Main Street and Humby Road to the Definitive Map and Statement (DMS) was made by Mr Peter Harden, a local resident in May 2019. The application was based primarily on the public's use of the route. Some documentary evidence was also provided. Following investigation by Lincolnshire County Council (the Order Making Authority (OMA)), it was considered there was a reasonable allegation of the route having historic highway rights. The Order was subsequently made on 7 February 2023.
2. The Order route is shown between points A-B-C-D-E on the Order Plan (see Appendix A) and comprises a route known locally as Ascoughy Lane or Askey Lane. It is approximately 790 metres in length and commences at the junction of three public highways (Main Street, Lenton Road and Irnham Road) on the eastern edge of Ingoldsby. From Main Street the Order route runs in a generally northerly direction to meet with Ingoldsby Public Footpath No.13 (FP13). Thereafter it continues north following a field-edge track for approximately 370 metres and then turns left (west) and continues on a farm track in a westerly direction for 575 metres to reach Humby Road (near the telephone exchange). The whole route is approximately 1,735 metres. The width of the Order route varies between 4.4-12 metres.
3. Land Registry Records indicate that the majority of the Order route is unregistered. One landowner (Yareal Humby Limited (YHL)) was identified and served the appropriate notice.
4. Two objections (YHL and Mr & Mrs Allen of Oaklands, Lenton Road) were received in response the OMA's publication of the Order. Letters dated 22 and 28 July 2025 from Withers LLP and the Allen's respectively, confirm the withdrawal of both objections. Although the Inspectorate received comments from Rowena Ward-Barrow, these are not considered to constitute an objection.

- 5. As there are no outstanding objections to the Order, a site visit was not considered necessary.

Main Issues

- 6. The Order has been made under section 53(2)(b) of the 1981 Act in consequence of an event specified in section 53(3)(c)(i).
- 7. The main issue is whether the discovery by the OMA of evidence, when considered with all other relevant evidence, is sufficient to show that a right of way which is not shown in the map and statement subsists over the land to which the map relates. The test to be applied to the evidence is on the balance of probabilities.
- 8. The Council rely on statutory dedication of the way under Section 31 of the Highways Act 1980 which provides that where a way, other than a way of such a character that use of it could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public, as of right and without interruption, for a period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that the landowner demonstrated a lack of any intention during this period to dedicate the route. The 20-year period applies retrospectively from the date on which the right of the route was brought into question.

Reasons

Statutory dedication – Section 31 of the Highways Act 1980

When the right to use the way was brought into question

- 9. As explained above, the 20-year period is calculated retrospectively from the date the public's right to use the route was brought into question. The OMA's Statement of Reasons (SoR) considers in some detail when the public's right to use the route was first brought into question (see paragraphs 5.38-5.65).
- 10. Having carefully considered all the relevant evidence, I concur with the OMA that the locking of the gates on Humby Road and the installation of notices between points C-D-E prohibiting access beyond FP13 in 2005, were the first overt acts by the landowner which challenged the public's use of the route 'as of right'. The 20-year period under consideration is therefore 1985 to 2005.

Evidence of use 1985 to 2005

- 11. The application was supported by 29 User Evidence Forms (UEFs) and a number of written statements. The OMA refers to a total of 40 witnesses who used the route between 1985-2005. 30 of those used the route regularly and nine have confirmed their use over the full 20-year period. The majority of witnesses used the whole order route.
- 12. While the evidence of some users should be discounted, the user evidence demonstrates frequent use of the route by local people on foot, principally for leisure purposes. Prior to 2005 there is no evidence to suggest that users were challenged nor were any notices or obstructions erected.
- 13. I consider that the level of use during the relevant 20-year period would have been sufficient to bring home to the landowner that a right was being asserted against him. While a small number of users received permission to walk the routes, most

did not. There is no substantive evidence to suggest that any use of the Order route was secretive or by force nor that the use was interrupted during the 20-year period.

14. A presumption of dedication of a public footpath thereby arises from the user evidence. That being the case it is necessary to consider whether any landowner demonstrated a lack of intention to dedicate the way as a public footpath.

Whether any landowner demonstrated a lack of intention to dedicate

15. For there to be sufficient evidence that there was no intention to dedicate the way there must be evidence of some overt acts on the part of the landowner, during the relevant period, to show the public who used the path, that they had no intention to dedicate it as a public footpath. The test is whether a reasonable user would have understood that the landowner was intending to disabuse the user of the notion that the way was public.
16. Correspondence sent to the OMA on behalf of the current landowner for the section of path between points B-C and his tenant farmer suggests that verbal challenges were made, along with the placement of hay bales and ploughing along the route. However, the current tenant only farmed the land since 2005. These actions are therefore outside the relevant 20-year period.
17. There is nothing in the evidence to suggest the landowner took any steps prior to 2005 to disabuse the notion that the public's use of the route was 'as of right'. The OMA has confirmed that it did not receive deposits or declarations under section 31(6) of the Highways Act. In light of the foregoing, there is insufficient evidence before me to demonstrate a lack of intention to dedicate and as such the dedication of a public footpath on the Order route is made out.

Documentary Evidence

18. As the case for statutory dedication is made out on the user evidence, it is not necessary for me to consider the documentary evidence which in any event is not determinative.

Conclusions

19. I have found that there is sufficient user evidence to demonstrate use of the Order route between 1985 and 2005. There is no evidence that the use was interrupted or that it was not 'as of right'. I have not identified any evidence to show a lack of intention to dedicate a public right of way over the Order route within the 20-year period. I am therefore satisfied that the Order route should be recorded as a public footpath. Having regard to these and all other matters raised I conclude that the Order should be confirmed.

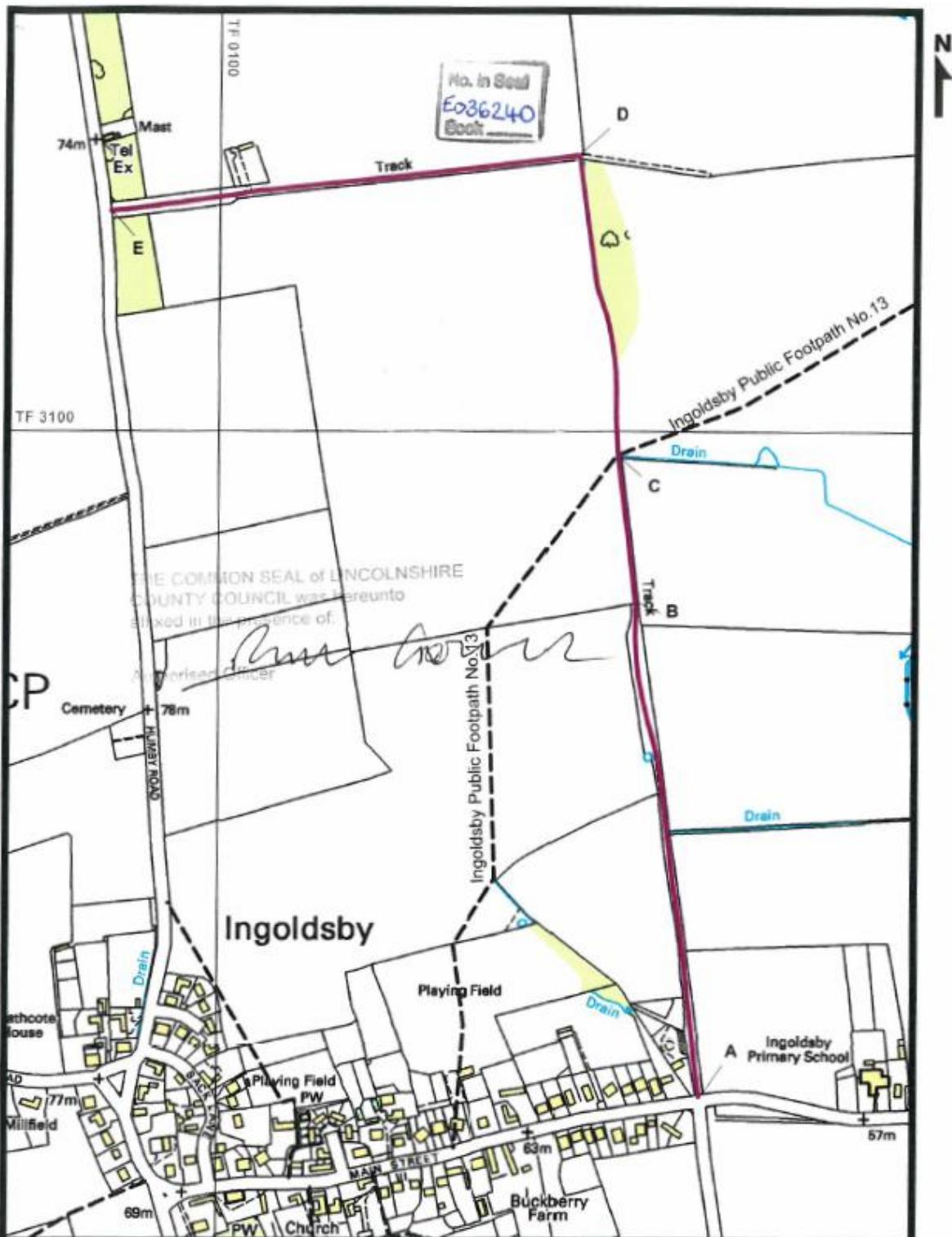
Formal Decision

20. The Order is confirmed.

D M Young

INSPECTOR

Appendix A –Order Plan



 <p>Lincolnshire COUNTY COUNCIL <i>Making for a better future</i></p>	<p>Countryside Services Lincolnshire County Council County Offices, Newland, Lincoln, LN1 1YL</p> <p>Ingoldsby - Addition of Public Footpath No.1194</p>	<p>Key: Public Footpath Addition of Public Footpath No.1194 (A-B-C-D-E)</p>
	<p>Drawing No.: 2021/019/DMMO405/A4</p> <p>Scale: 1: 6,000</p>	<p>Date: 18/08/2021</p>