

Case Decision

Definitive Map Modification Order Case 487

Upgrade of Langton near Horncastle Public Footpath 161 to Public Bridleway between Main Road and Thornton Public Footpath 161 in the parish of Langton near Horncastle, and Claimed Bridleway between Point B (parish boundary) to B1191 in the parish of Roughton (Thornton)

Summary of Decision: To not make a definitive map modification order.

The Modification Order Application

1. The Modification Order Application (“the Application”) was made by Mr Stephen Parkhouse on 10 March 2022 seeking the addition to the Definitive Map and Statement for the area, the legal record of public rights of way, the claimed bridleway from Main Road, Thornton to a point on Thornton Public Footpath 161, and upgrade of Langton Public Footpath 161 and Thornton Public Footpath 161 (part) to bridleways. A copy of the original application and plan can be viewed at www.lincolnshire.gov.uk/directory-record/69609/langton-near-horncastle-roughton-dmmo-487
2. On 23 September 2024 the Applicant applied under paragraph 3(2) of Schedule 14 of the Wildlife and Countryside Act 1981 to the Secretary of State for a direction requiring the Authority to determine the application by a given date, under Section 53(5) of that Act. Within their Direction Decision dated 14 April 2025, the Secretary of State directed that Lincolnshire County Council (“the Surveying Authority” for Lincolnshire) determine the Application by 14 September 2026.
3. Following review of the available evidence, the Surveying Authority has made minor amendments to the claimed routes described in paragraph 1 above to the upgrade of Langton near Horncastle Public Footpath 161 to a Public Bridleway between Main Road (Point A) and Thornton Public Footpath 161 (Point B) in the parish of Langton near Horncastle, and, the claimed bridleway between Point B (parish boundary) to B1191

(Point C) in the parish of Roughton (Thornton) as shown on the attached plan (Appendix 1) ref. DMMO/487/Langton & Roughton/CDP by a black broken line between Points A-B-C. This route will be referred to hereafter as “the application route”.

4. Appendix 2 to this report lists the documents submitted in support of the Application and all other documents the Surveying Authority has consulted and taken into consideration in this decision.

Requirements and tests of the legislation

5. Section 53 of the Wildlife and Countryside Act 1981 (“the 1981 Act”) requires the County Council as the Surveying Authority for Lincolnshire to keep the Definitive Map and Statement, the legal record of public rights of way under continuous review. This is achieved through the making of definitive map modification orders where evidence is discovered which suggests that the Definitive Map and Statement require amending.
6. The main issue which is relevant here is whether the evidence demonstrates that a public right of way subsists or is reasonably alleged to subsist over the route applied for to warrant the making of a definitive map modification order under section 53(3)(c)(i) of the 1981 Act for it to be added to the Definitive Map and Statement, and whether there is a highway shown in the Map and Statement as a highway of a particular description ought to be there shown as a highway of a different description under section 53(3)(c)(ii) of the 1981 Act for it to be added to the Definitive Map and Statement.
7. The County Council must base its decision exclusively on the evidence. Should a definitive map modification order be made, it must record the route and status of the public right of way that is shown to exist by the evidence, even if it differs from that applied for. Conversely, if the evidence fails to demonstrate the existence of a public right of way or one of a different classification than is currently recorded in the Definitive Map and Statement, no order shall be made.

Documentary Evidence

8. Historical documents may provide evidence supporting that a public right of way had been created or dedicated in the past. If a public right of way is shown to have been dedicated or created, then the public right of way will continue to exist indefinitely¹ unless it is shown to have been stopped up, extinguished or diverted by virtue of a statutory provision such as a public path diversion or extinguishment order made under the Highways Act 1980 or the Town and Country Planning Act 1990, for example.
9. Inclosure Awards and their accompanying plans can be highly significant pieces of evidence. In many instances, where an award is shown to have created a right of way

¹ The judgement *Dawes v Hawkins* (1860) held that ‘it is also an established maxim, once a highway always a highway: for the public cannot release their rights, and there is no extinctive presumption or prescription’

and the proper legal procedures were followed, it may provide definitive proof that the right of way exists. Where a route is shown in an inclosure award and plan, it is essential to consider the relevant Acts, as these set out the powers under which the award was made and the processes that were required to be followed.

10. The Langton and Woodhall enclosure evidence has been reviewed, to include the 1767 Langton and Woodhall Inclosure Act, 1769 Langton and Woodhall Inclosure Award (to include transcribed copies), however, no Inclosure Plan accompanied any of the documents. The Inclosure Act confirmed that Commissioners could set out public and private roads and ways and once the new roads and ways were set out, it would no longer be lawful to use *“any ancient or other publick or private way”*. Whilst the Act does not itself identify a specific bridleway / bridle road between Langton and Thornton (Points A to B on the Case Decision Plan (CDP)), it does state that any pre-existing way would need to be specifically set out in the Award in order to survive.
11. The Inclosure Award narrative records a route described as *“Thornton Bridle Road”* and is set out as *“a bridle road or way for horses and other cattle”*, 20 feet wide, running from the south end of Blows Lane southward over allotments No. 14 and No. 13 (land of Charles White) to *“the ancient gate leading into the Lordship of Thornton”*.
12. Although the Thornton Bridle Road entry appears under the structural heading *“Private Roads in Langton”*, the wording differs from other entries that are explicitly *“private carriage and drift roads”* and does not restrict use to named owners or occupiers, or *“for the use of”* a particular allotment, unlike several other *“private”* roads set out in the Award. This may be regarded as suggestive, on its face, of a bridle route of wider use than a purely private road, however, this matter is considered in further detail at paragraphs 51-52 below alongside the judgment in *Craggs v Secretary of State for Environment, Food and Rural Affairs* (2020) (*“the Craggs judgment”*).
13. Nevertheless, no inclosure plan has been seen by the Surveying Authority, and, as road names have changed and it is therefore unclear to the Surveying Authority where Blows Lane was, this Award evidence cannot be tied with certainty to the exact alignment of the Application Route. Additionally, the Award description of ending at the *“ancient gate”* into Thornton does not expressly confirm a continuation beyond that gate into Thornton.
14. Overall, whilst the Langton and Woodhall Inclosure Award supports the proposition that a bridle road existed from Langton into Thornton, it is considered that, due to the absence of a plan, it cannot be safely equated to the claimed alignment of the Application Route between Points A and B.
15. From the late 18th century through to the 1880s, there was a notable increase in county maps produced by private surveyors. The quality and accuracy of these maps can vary considerably. Earlier examples are often quite basic and tend to show only the main routes, whereas later maps, such as those produced by Bryant, are generally more detailed and appear to have been surveyed with greater precision. Some surveyors

reused information from earlier surveys or estate plans and in most cases, these maps do not clearly distinguish between public and private routes, so they should be considered alongside other available evidence. However, where a route appears both on these maps and in other documentary sources, this combined evidence can provide useful support for the existence of a right of way.

16. The only historical map of relevance reviewed by the Surveying Authority is the 1828 Bryant's Map of Lincolnshire. This shows, in Thornton, and in relation to the Application Route, a short north-south track in the vicinity of the southern part of the Application Route (roughly between Point B and C), consistent with the modern Ox Pasture Lane area, however, the depiction is unclear as to whether it continues to the parish boundary due to text across the map. This early small-scale mapping gives limited contextual support for a track near to Point C of the Application route, however, it does not reliably evidence a continuous A-B-C route, or even the full B-C section, or its status.
17. Tithe maps were produced following the Tithe Commutation Act of 1836. Their main purpose was not to record highways or public rights of way, but to assess the productive value of land so that a tithe payment could be calculated. As roads were generally seen as non-productive, they were often left out of the land subject to tithe assessment. In some cases, footpaths and bridleways are shown, although this is relatively uncommon. Despite this, tithe maps can be useful sources of evidence. They are typically drawn at a large scale and to a reasonable level of accuracy, and as formal documents they were subject to a degree of public scrutiny at the time. However, their content and quality can vary significantly, so each map and its accompanying apportionment should be considered on its own merits. The Planning Inspectorate Definitive Map Consistency Guidelines² state that tithe documents were not intended to establish or record rights of way, and non-titheable treatment does not necessarily equal "public highway".
18. The 1839 Thornton Tithe Award, to include the Tithe Plan and Apportionment Book, explicitly shows, on the Plan, a route annotated as a "bridleway" in orange, running from the B1191 (Point C) northwards along field edges (plots A21 and A22), then turning north-westerly through the upper part of plot A23, and continuing to/through the parish boundary into the Lordship of Horncastle. The bridleway is not given a parcel number and is not included in the apportionment as titheable land, whereas the public road (B1191) is numbered and described ("public road from Martin"), indicating that the bridleway was treated as non-titheable land consistent with a route or way separate from the surrounding titheable parcels, although non-titheable status may arise for reasons other than highway.

² Planning Inspectorate. (2022) *Wildlife and Countryside Act 1981: Definitive Map Orders – Consistency Guidelines*. [online] GOV.UK. Section 10.1. Available at: <https://www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines/wildlife-and-countryside-act-1981-definitive-map-orders-consistency-guidelines> [Accessed 08 May 2025].

19. As Thornton was not subject to inclosure (only a tithe award was made), the extinguishment clause set out in the 1767 Langton and Woodhall Inclosure Act (see paragraph 10 above) does not affect the Thornton section. The bridleway shown in Thornton would therefore have survived, unless stopped up or diverted.
20. Whilst the Applicant did provide a copy of the Thornton Tithe plan superimposed over a satellite image of the area, the Surveying Authority has georeferenced the Plan separately. The georeferencing indicates the Tithe bridleway running between the B1191 and the parish boundary, with the plotted line differing slightly from the original application line, to include passing through Primrose Cottage on the overlay. The CDP, and Consultation Plan, has taken this into account and better reflects line shown within the Tithe Plan (Points B to C) and is a slight adjustment to the original line provided by the Applicant.
21. Overall, the Tithe evidence provides persuasive, route-specific evidence for the existence and alignment of a way described on the Plan as a “bridleway” between Point B (the parish boundary) and Point C (terminating at the B1191) in Thornton / Roughton, at the date of the tithe survey. The fact that it is shown separately from adjoining titheable parcels and is not apportioned supports the inference that it was treated as non-titheable land, however, tithe documentation was not intended to record rights of way and can generally provide no more than an indication as to whether a way is public or private. Accordingly, while the tithe records are strong evidence of the route’s physical presence and character as a bridle route, they are not conclusive of public bridleway status and must be weighed alongside the other available evidence. The Tithe evidence does not assist with Points A to B as the Plan does not extend into Langton.
22. The Ordnance Survey one-inch-to-the-mile maps provide a level of detail comparable to some of the better private survey maps, such as those produced by Bryant. However, these maps were originally created for military purposes, with a focus on features important for the movement of troops and equipment, as well as for defence. As a result, while roads, tracks and the surrounding landscape were carefully recorded, little attention was given to whether routes were public or private. From the 1880s onwards, Ordnance Survey began producing larger-scale maps at scales such as 1:2,500 and 1:10,560. These maps were also primarily concerned with accurately depicting physical features on the ground, rather than recording legal rights. Many include statements making clear that the depiction of roads, tracks and paths does not in itself prove the existence of public rights of way. Despite this, Ordnance Survey maps can still provide valuable evidence that a route physically existed over time. For example, they can help demonstrate that a route set out in an enclosure award was actually laid out and used on the ground.
23. The late 19th century to early 20th century Ordnance Survey maps spanning the 1880s to 1910s, which include the 25-inch maps spanning 1887-1906, 6-inch maps spanning 1888-1907, and one-inch maps spanning 1891-1909, consistently show a footpath in Langton joining the main road to the west of Manor House running generally southeast

/ east-southeast towards the parish boundary, broadly corresponding with Points A to B of the Application Route.

24. In Thornton, the mapped footpath generally originates from Church Lane (near the church/pump/well), running northwest to the parish boundary, and does not connect with the track/road leading north from the B1191 (the Ox Pasture Lane alignment). The Ordnance Survey mapping shows two separate, unconnected features in the relevant area: the footpath from Church Lane to the parish boundary; and, a separate track/minor road leading from B1191 north then turning west-southwest (Ox Pasture Lane), which does not meet the aforementioned footpath.
25. Overall, the late 19th century to early 20th century Ordnance Survey maps show a repeated depiction of a path for Points A-B of the Application Route in Langton, but repeated depiction of a lack of continuity between the parish boundary path and Ox Pasture Lane / B1191 for Points B-C of the Application Route. Additionally, these maps often carry the standard Ordnance Survey disclaimer that depiction of a “road, track or footpath” is not evidence of a right of way.
26. Similar to tithe maps, the 1910 Finance Act maps and records were created to establish the value of land rather than to document highways or rights of way. The 1910 Finance Act introduced a tax on land transactions, which required a detailed survey of all land in England and Wales. Large-scale Ordnance Survey maps were used, with each parcel of land (or hereditament) outlined, coloured, and assigned a reference number. These plans are supported by Books of Reference which list each plot by parish and reference number, providing detailed descriptions. They also record whether any reductions in land value were claimed, for example where public rights of way crossed the land. Because strict penalties applied for false claims, any agreed reduction relating to a right of way can be strong supporting evidence of its existence. However, where a plot covers a large area or contains several possible routes, it may not be clear which, if any, particular path led to the reduction in value. Roads were generally excluded from valuation and therefore appear uncoloured and without reference numbers on the maps. While not conclusive on their own, this can provide useful supporting evidence when considered alongside other sources.
27. The 1910 Finance Act records available to the Surveying Authority, to include plans and valuation books, show the same discontinuity in Thornton as set out in paragraphs 24-25 above. A track from B1191 can be seen running north from the B1191 then southwest (Ox Pasture Lane), and a separate footpath running west from Church Lane before heading north / northwest, both of which are separated by a small parcel of land containing buildings. The underlying footpath does not follow the claimed B-C line until it reaches the parish boundary.
28. The route is shown within larger hereditaments rather than being left wholly uncoloured / unnumbered in the manner typical of public roads. The Valuation Book entries for the relevant plots in Langton and Thornton show no deductions for public rights of way, and the recorded deduction content seen relates to “Right of Shooting”,

a private sporting right. However, deductions are only sparsely recorded in the apportionment book seen and it is therefore uncertain whether these are complete.

29. Overall, the Finance Act records reviewed by the Surveying Authority show a mapped existence of a path between Points A-B of the Application Route, but it does not support a continuous B-C alignment, nor does it provide valuation-based confirmation of a public bridle/foot path for the entirety of the Application Route.
30. Looking at the Ordnance Survey maps from the 1910s to the 1940s, including the one-inch to the mile maps spanning 1923-1947, and the c.1949 scale 1:25,000 map, these continue to show a dashed path between Thornton and Langton running from Church Lane in Thornton to the parish boundary and into Langton, and a separate minor road/track corresponding with Ox Pasture Lane. These features are generally shown as distinct routes rather than continuous.
31. Overall, for this period, there is a continued depiction of Points A-B in Langton of the Application Route shown on these maps, however, there is a continued lack of a single continuous mapped path linking through to Ox Pasture Lane / B1191 for Points B-C in Thornton.
32. The Thornton parish path survey notes from the 1950s contained a bundle of correspondence from 1945 which related to the metalled road from B1191 to Ox Pasture Farm (Ox Pasture Lane) and queried whether it was maintained by the County Council. The clerk noted that there was no parish award for Thornton so they could not confirm reparability. Whilst this piece of evidence is informative about highway maintenance around Ox Pasture Lane (Point C), it is not about bridleway status of the claimed cross-field route.
33. Within the Thornton parish path survey notes, Public Footpath 161 (survey number "8") is described as *"way to Langton"* starting at *"Road to Ox Pasture Farm"* and running *"across parish boundary & joins CRB from Langton"*. The condition / usefulness of the footpath was recorded as *"open, but not used, better way opened up at (9)"*. This suggests that, by 1952, the parish surveyors understood the recorded footpath to start from the Ox Pasture Farm road rather than Church Lane, aligning the recorded public footpath closer to the modern definitive depiction where Public Footpath 161 meets Ox Pasture Lane.
34. The Langton parish path survey notes show, on the summary of schedules, Public Footpath 161 (survey number "3") adjoins to "No 8 Thornton", however, survey number 3 was not available and therefore the route description is unknown. The summary schedule does set out a public footpath rather than public bridleway.
35. Overall, the Thornton parish path survey notes show that the recorded public footpath was being treated as running to and from Ox Pasture Lane near Point C, even though earlier Ordnance Survey base mapping frequently showed the path running to Church Lane. This evidence does not, however, provide any explicit indication of bridleway

rights. Similarly, the Langton parish path survey summary records a public footpath rather than a public bridleway.

36. Public Footpath 161 does not feature on the 1955 Definitive Statement for Horncastle Urban and Rural Districts, however, it does feature on the Definitive Map. Langton near Horncastle Public Footpath 161 is shown as running from Point A of the Application Route to the parish boundary at Point B. Thornton Public Footpath is marked as running from Point B at the parish boundary running generally southeasterly / east-southeasterly before connecting to Ox Pasture Lane. Public footpath rights are therefore recorded between Points A and B of the Application Route, however, into Thornton, the definitive footpath does not match the alignment of the Application Route between Points B to C.
37. The mid to late 20th century Ordnance Survey maps spanning the 1950s to 1970s, to include the 1951 6-inch map, 1953 1:25,000 scale map, one-inch to the mile maps spanning 1954-1962, 1956 1:10,560 map scale, and scale 1:2,500 maps spanning 1969-1972, show continuing support for a public footpath between Points A and B.
38. In Thornton, the larger scale 1951 6-inch map and 1956 scale 1:10,560 map clearly label a footpath ("FP") running from Church Lane to the parish boundary and onward to Langton, while showing Ox Pasture Lane as a separate road / track; they show the footpath and track not meeting, with a building / plot separating them. Additionally, the scale 1:2,500 maps show footpath features in the relevant location, however, the footpath depicted on these maps continuing towards the church rather than directly to Ox Pasture Lane, and therefore does not match the Application Route between B to C. The smaller scale one-inch maps depict the route more like a single continuous route meeting Ox Pasture Lane, however, due to scale limitations, it is not possible to accurately match the alignment to the Application Route between Points B to C.
39. Overall, the mid to late 20th century maps continue to show a public footpath between Points A to B of the Application Route. In Thornton, however, the more detailed mapping consistently depicts the Church Lane footpath and Ox Pasture Lane as separate features, with only later or smaller-scale mapping appearing to generalise a connection consistent with the Definitive Map. None of this mapping provides clear or explicit confirmation of bridleway rights.
40. The modern Ordnance Survey maps spanning the 1990s to 2000s, including the Landranger maps spanning 1993-2002, 1995 Pathfinder map, and Explorer maps spanning 1999-2006, show public rights of way as taken from the Definitive Map and therefore depict Langton near Horncastle and Thornton Public Footpath 161 as a footpath, not as a bridleway. They generally show the alignment of Public Footpath 161 as running from Langton to meet Ox Pasture Lane then a track meeting with the B1191. The mapped footpath alignment tends to pass to the east of a building at the corner of Ox Pasture Lane whereas the Application Route passes through that building.

41. The Surveying Authority has also had sight of highways and maintenance evidence spanning 1929 to 2026, to include the 1929 Highways Handover map (Horncastle Rural District), 1964 Lindsey County Council Liability Repair document, obsolete liability and maintenance maps from c.1970 and c.1984, 1990 Highways Maintenance Atlas, and the Lists of Streets which include the archived Lists from 2016 and 2020, and FindMyStreet (accessed 23 January 2026).
42. The 1929 Highways Handover Map shows a dashed footpath between Langton and Thornton on the underlying map broadly along Points A to B of the Application Route. It shows Ox Pasture Lane as a metalled district road, depicted as a solid black line, throughout its entire length, including the short north-south section of the Application Route near Point C. The dashed path does not appear to connect to the metalled road. This is considered as strong evidence that Ox Pasture Lane (near Point C) was treated as a vehicular maintainable road and therefore carried higher rights than a bridleway.
43. The 1964 Thornton Lindsey County Council Liability Repair form records a road leading from the B1191 to the entrance to Ox Pasture Farm, with lengths and maintenance history, stating it was “*taken over RDC*” and maintained by the County Council. It also notes earlier classification as Grade E on a 1930 rural district map. This again supports that the southernmost section of the Application Route, near Point C (Ox Pasture Lane) was a publicly repairable highway and is therefore of higher rights than bridleway. It does not, however, give any insight into the rest of the Application Route.
44. The obsolete liability and maintenance maps from c.1970 and c.1984 show Ox Pasture Lane coloured blue and therefore publicly maintainable. No other part of the Application Route is marked as maintainable. They also show that the mapped footpath on the base mapping does not connect to Ox Pasture Lane.
45. The 1990 Highways Maintenance Atlas shows “Canada Lane” described in the location of the now-known Ox Pasture Lane, running from the B1191 and creating a cul-de-sac. This route is noted to be an unclassified road. But for the short north-south section of the Application Route near Point C, no other relevant routes are depicted.
46. The 2016 archived List of Streets shows Ox Pasture Lane is recorded as a highway maintainable at public expense in Roughton (Thornton), supporting the longstanding maintainability of the lane near to Point C of the Application Route. The 2020 archived List of Streets list Public Footpath 161 in both Langton and Thornton as maintainable at public expense, and Ox Pasture Lane remains recorded. FindMyStreet likewise shows both Langton Public Footpath 161 and Thornton Public Footpath 161 as maintainable at public expense, and Ox Pasture Lane is maintainable for its entire length.
47. Overall, the highways and maintenance evidence shows that Ox Pasture Lane (near to Point C of the Application Route) is, and long has been, recorded and treated as a publicly maintainable vehicular highway. The evidence reviewed between paragraphs 41 and 46 all support the conclusion that Ox Pasture Lane forms part of the ordinary

road network, rather than a route of a type ordinarily recorded in the Definitive Map and Statement. This is also consistent with the present physical appearance of the lane as a metalled road with highway street furniture, to include a dead-end sign. Accordingly, insofar as the Application Route uses Ox Pasture Lane near Point C, this section already carries vehicular highway status (higher rights than a bridleway) and should not be added to the Definitive Map as a bridleway. Nor does this evidence support the recording of Ox Pasture Lane as a Byway Open to All Traffic (BOAT), as the evidence points to it being part of the ordinary road network already recorded and maintained as a highway maintainable at public expense. The highways and maintenance evidence does not provide evidence that the remainder of the Application Route carries bridleway rights beyond confirming how the existing highway network is maintained and recorded today.

48. In summary, the early evidence from the 1769 Langton and Woodhall Inclosure Award records a “Thornton Bridle Road” running from Langton towards Thornton, but in the absence of an inclosure plan and uncertainty over historic place-names mean this evidence cannot be reliably tied to the claimed alignment between Points A and B of the Application Route.
49. The 1839 Thornton Tithe Award provides persuasive, route-specific evidence for the existence and alignment of a way described as a “bridleway” between Points B and C of the Application Route, however, tithe documentation was not intended to record rights of way and is not conclusive of public status.
50. Subsequent Ordnance Survey mapping, 1910 Finance Act records, parish path survey documentation, and highway maintenance evidence consistently support the existence of public footpath rights between Points A and B, but repeatedly show a lack of continuity between the parish boundary path and Ox Pasture Lane (Points B to C), instead depicting two separate features: a footpath from Church Lane to the parish boundary, and a distinct vehicular highway (Ox Pasture Lane) connecting to the B1191.

Other evidence relevant to the matter

Craggs v Secretary of State for the Environment of Food and Rural Affairs (2020)

51. As part of their Application, the Applicant submitted a copy of the High Court judgment in *Craggs (2020)*³. *Craggs* concerned whether an old inclosure award could be treated as having created a public bridleway. The court considered an award where certain routes were described under a “private” heading, yet other wording suggested very wide use. The judgment explains that where an award appears unclear or internally inconsistent, (i.e. calling something “private” while also describing public use), the decision-maker must identify any parts which go beyond the commissioners’ legal powers under the enabling Act and then consider whether

³ *Craggs, V. v Secretary of State for the Environment, Food and Rural Affairs (2020) EWHC 3346 (Admin)*, 7 December 2020. High Court of Justice (Queen’s Bench Division), Administrative Court. Available at: www.bailii.org/ew/cases/EWHC/Admin/2020/3346.html (Accessed: 11 May 2026)

any lawful element, such as a bridle-type right, can be preserved without the court effectively rewriting the award.

52. The Applicant argues that because the Thornton Bridle Road entry is not expressly limited in the same way as certain other private roads in the Award (i.e. where a route is stated to be “for no other purpose whatsoever”), it must have been intended as a *public* bridleway despite appearing under the heading “Private Roads in Langton”. The Award does expressly set out a “Bridle Road or way for horses and other cattle” of 20 feet in width between Blows Lane and the ancient gate into Thornton. However, unlike the instrument considered in Craggs, the Langton and Woodhall Award narrative does not contain a clear clause granting use of these “private roads” to all persons. Additionally, the enabling Act links “public roads” to a 60-foot minimum width and a public repair regime. On the inclosure evidence alone, the absence of a restrictive phrase is therefore not, by itself, sufficient to demonstrate that public bridleway rights were created.

Relevant Planning Inspectorate Decisions

53. The Secretary of State’s Interim Order Decision from 2022⁴ looks into whether a highway of a particular description ought to be shown on the Definitive Map and Statement as a different description. Somerset County Council had originally determined that no modification orders should be made to upgrade certain footpaths and part of another footpath, however, the Somerset Bridleway Association (SSBA) appealed this decision under Schedule 14 of the Wildlife and Countryside Act 1981 following which the authority was directed to make an Order, which it did, proposing upgrades to restricted byway status. Following further objections, the matter proceeded to a public inquiry at which the Council adopted a neutral stance and SSBA led the supporting case. SSBA had revised its position following the Craggs judgment and there sought bridleway status for one of the footpaths rather than restricted byway. The Inspector concluded (on the balance of probabilities) that the restricted byway rights subsisted over certain footpaths, but that one should be recorded as a bridleway, expressly relying on the Craggs approach to the relevant inclosure award which set out specific wording of *“and also for the use benefit and enjoyment of all and every other person or persons whomsoever having any occasion whatsoever to pass and repass thereon”* despite it being described under “private carriage roads and ways”.
54. This shows that the Inspector treated the Craggs judgment as clarifying how inclosure wording can support public bridle right even where roads are labelled “private”. The Inspector focused on the precise enabling Act and Award wording combination, rather than accepting “private heading = private right” as determinative. In this Application, the Langton and Woodhall Inclosure Award narrative lacks the decisive

⁴ Order ref: ROW/3229117. Decision date 23 May 2022. Somerset County Council.

“public user” clause that underpins the Craggs outcome, and the enabling Act does not support a public bridleway.

55. A similar approach was taken by the Secretary of State in an Appeal Decision from 2020⁵, where an inclosure award described a route as a bridleway under a heading beginning with “Private”. North Somerset Council had determined not to make a modification order to upgrade certain public footpaths to a bridleway, and that decision was appealed under s53(5) and Schedule 14 of the Wildlife and Countryside Act 1981. The appellant relied principally on the inclosure award, which described the route as a “bridleway and footpath”, arguing that it ought therefore to be recorded at higher status. Applying the principles in *Andrews v Secretary of State for Environment, Food and Rural Affairs* (2015)⁶ the Inspector accepted that this did not preclude a public bridleway in principle as the inclosure accepted that the use of the word “Private” in the inclosure award did not, of itself, preclude the existence of a public bridleway. However, the Inspector found that the inclosure wording alone was not decisive, that the evidence of physical existence and continuity of the bridleway was weak, that later mapping consistently showed the route as a footpath rather than a bridleway, and that river engineering works were likely to have destroyed part of the original inclosure line, breaking continuity. The Inspector concluded that the overall evidence was finely balanced and insufficient to demonstrate that the route ought to be recorded at higher status.
56. Although the Inspector’s decision was made before the Craggs judgment, the outcome would not necessarily have been different even when applying the principles in Craggs. The failure point in that case was not whether a public bridleway could exist in law by reference to the inclosure award (vires or severability), but whether the totality of the evidence was sufficient to meet the statutory test under section 53(3)(c)(ii) of the 1981 Act. The Inspector concluded that it was not.
57. The circumstances of the present Application are comparable in that the Applicant relies heavily on inclosure documentation describing a route as a bridleway, notwithstanding its placement under a heading referring to private roads. As in the 2020 Planning Inspectorate decision, such wording is capable of supporting a public bridleway in principle, but it is not determinative on its own. Additionally, the evidence of existence and continuity of the route was weak and the evidence was therefore insufficient to meet the test required.

⁵ Appeal ref: FPS/D0121/14A/10. Decision date 27 February 2020. North Somerset Council.

⁶ *Andrews, R (on the application of) v Secretary of State for Environment, Food and Rural Affairs* (2015) *EWCA Civ 669*, 01 July 2015. Court of Appeal (Civil Division). Available at: www.bailii.org/ew/cases/EWCA/Civ/2015/669.html (Accessed 14 May 2026)

Conclusion

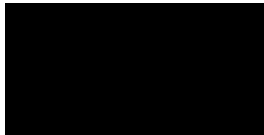
58. **The documentary evidence on the whole does not suggest there are public bridleway rights along the Application Route to warrant the making of a definitive map modification order under section 53(3)(c)(i) of the 1981 Act.**
59. Whilst the inclosure and tithe evidence provides support for the existence and alignment of a bridle route on parts of the Application Route, the overall evidential picture must be considered as a whole.
60. As outlined at paragraphs 9-14, whilst there is reference to a “Thornton Bridle Road” in the 1769 Langton and Woodhall Inclosure Award, in the absence of an inclosure plan, and with “Blows Lane” and allotment locations now uncertain, the bridle road cannot be confidently matched to Points A to B of the Application Route. Additionally, the Award narrative itself does not confirm continuation beyond the “ancient gate” into Thornton.
61. The Applicant’s reliance on the absence of an express restriction within the Thornton Bridle Road entry is noted, however, while the Inclosure Award describes a 20-foot “Bridle Road or way for horses and other cattle” between Blows Lane and the ancient gate into Thornton, this wording alone is not determinative of public bridleway status. Unlike the award considered in Craggs judgment, the Inclosure Award contains no clear clause granting use of these routes to all persons. Accordingly, on the inclosure evidence alone, the absence of an explicit restrictive phrase is insufficient to demonstrate that public bridleway rights were created.
62. Consistent with the Inspectors’ decisions at paragraphs 53-57, the presence of inclosure terminology alone does not remove the need to assess whether the totality of the evidence is sufficient to demonstrate that the route ought to be recorded at a higher status under section 53(3)(c)(ii) of the 1981 Act.
63. In Roughton (Thornton), whilst the 1839 Thornton Tithe Plan shows a “bridleway” running between the B1191 and the parish boundary (Points C to B), later mapping reflects footpath rights on a slightly different line. This bridleway does not necessarily mean “public” bridleway, and, as detailed at paragraph 17, the Planning Inspectorate Consistency Guidelines explicitly warn that tithe material is not aimed at recording rights of way and typically only gives an indication, not proof, of public / private status. The later documentation seen consistently record a footpath without a continuous route through to Ox Pasture Lane.
64. The southernmost section of the Application Route, being the short north-south section of Ox Pasture Lane near to Point C, is already recorded and treated as a publicly maintainable vehicular highway. The evidence indicates that this section forms part of the ordinary road network, rather than being a route of a type ordinarily recorded in the Definitive Map and Statement. It would therefore be inappropriate and

unnecessary to record that maintained section of Ox Pasture Lane as a bridleway, or BOAT, should an order be made.

Decision

65. **Based on the points raised within this report, after reviewing the evidence available to the Surveying Authority, a definitive map modification order is *not to be made* for the reasons outlined in paragraphs 58-64 above.**

Signed:

A black rectangular box redacting the signature of Andrew Pickwell.

Name: Andrew Pickwell

Position: Senior Definitive Map Officer

Dated: 1 July 2026

Appendix 2

Documents viewed that were taken into consideration on the decision of Definitive Map Modification Order Case 487

1767	Langton and Woodhall Inclosure Act
1769	Langton and Woodhall Inclosure Award
1769	Copy of Langton and Woodhall Inclosure Award
1769	Copy (transcription) of Langton and Woodhall Inclosure Award
1769	Modern transcription of Langton and Woodhall Inclosure Award
1779	Armstrong's Map of Lincolnshire
1787	Cary's Map of Lincolnshire
1792	Canal Plan of Rivers Bain & Waring and Navigation from Horncastle
1792	Act for extending Tattershall Canal (Horncastle Navigation Company Act)
1803	River Witham Navigation Improvement plans
1803	River Witham Navigation: Improvements Lincoln-Boston
1806	King's Map of Belvoir Castle and the surrounding area
1810 – 1812	Langton Quarter Sessions Minutes
1817 – 1820	Thornton Quarter Sessions Minutes
1819	Ordnance Surveyor's Drawing of Horncastle
1824	Ordnance Survey one-inch old series map, LXXXIII
1824	Cassini Old Series Ordnance Survey 1-inch map 122 Skegness & Horncastle, Sheets 69, 70, 83 & 84
1828	Bryant's Map of Lincolnshire
1830	Greenwood's Map of Lincolnshire
1831	Cary's Map of Lincolnshire

1839	Thornton Tithe Award, to include Plan of the Lordship of Thornton and apportionment book
1839	Thornton tithe plan over satellite image
1839	Thornton tithe plan georeferencing
1839 – 1842	Roughton Quarter Sessions Minutes
1845	Lindsey Development Plans: Lincoln, Wainfleet Haven and Boston Railway
1845	Lindsey Development Plans: Great Grimsby and Sheffield Junction Railway Extensions
1845	Lindsey Development Plans: Horncastle and Kirkstead Great Northern Junction Railway
1845	Lindsey Development Plans: Lincolnshire and Eastern Counties Junction Railway
1846	Lindsey Development Plans: Great Northern Railway, Branches to Horncastle and to Brayford Mere
1864	Witham Drainage – plan of River Witham
1876	Plan of Wildmore Fen showing detached parts of pars.
1882 – 1884	Thornton Quarter Sessions Minutes
1887	Ordnance Survey 25-inch map, Lincolnshire LXXIII.14
1887	Lindsey Development Plans: Lincoln, Horncastle, Spilsby & E. Coast Railway
1888	Ordnance Survey six-inch map, Lincolnshire Sheet LXXIII.SW
1888	Ordnance Survey 25-inch map, Lincolnshire Sheet LXXXI.1
1889	Ordnance Survey 25-inch map, Lincolnshire LXXIII.14
1889	Ordnance Survey 25-inch map, Lincolnshire LXXII.16
1889	Ordnance Survey 25-inch map, Lincolnshire LXXII.13
1889	Ordnance Survey 25-inch map, Lincolnshire LXXII.4
1889	Lindsey Development Plans: GNR Woodhall Spa, Kirkstead, Willoughby
1891	Ordnance Survey one-inch map, Sheet 115 Horncastle
1899	Ordnance Survey one-inch map, Sheet 115 Horncastle
1902	Ordnance Survey one-inch map, Sheet 115 Horncastle

1903	Bartholomew half-inch map, Sheet 14 Lincoln Fens
1905	Ordnance Survey 25-inch map, Lincolnshire LXXX.4
1905	Ordnance Survey 25-inch map, Lincolnshire LXXX.1
1906	Ordnance Survey 25-inch first edition map, Lincolnshire LXXIII.14
1906	Ordnance Survey 25-inch map, Lincolnshire LXXIII.16
1906	Ordnance Survey 25-inch map, Lincolnshire LXXIII.13
1907	Ordnance Survey six-inch second edition map, Lincolnshire Sheet LXX.III.SW
1908	Ordnance Survey one-inch third edition map, Sheet 115 Horncastle
1909	Ordnance Survey one-inch third edition map, Sheet 48 Spilsby
1910	Draft Finance Act Plan, Lincolnshire Sheet LXXIII.14
1910	Finance Act Plans, Lincolnshire Sheet LXXIII.14 and LXXIII.13
1910	Finance Act valuation book for Langton and Thornton
1923	Ordnance Survey one-inch popular edition map, Sheet 47 Lincoln
1923	Ordnance Survey one-inch popular edition map, Sheet 48 Horncastle & Skegness
1924	Bartholomew half-inch map, Sheet 30 Lincolnshire
1929	Highways Handover Map
1942	Ordnance Survey War Office one-inch popular edition map, Sheet 48 Horncastle & Skegness
1943	Ordnance Survey War Office one-inch popular edition map, Sheet 47 Lincoln
1945	Thornton Parish Path Survey Notes (correspondence)
1947	Ordnance Survey one-inch popular edition map, Sheet 114 Boston & Skegness
c.1949	Ordnance Survey scale 1:25,000 provisional edition map, Sheet 53/26
c.1950	Ordnance Survey 6-inch map, Lincolnshire LXXII.SE
c.1950	Ordnance Survey 6-inch map, Lincolnshire LXXX.NE
1951	Ordnance Survey 6-inch map, Lincolnshire Sheet LXXIII.SW
1951	Ordnance Survey 6-inch map, Lincolnshire LXXXI.NW
1952	Thornton Parish Path Survey Notes

1952	Roughton Parish Path Survey Notes
c.1952	Langton Parish Path Survey Notes
1953	Ordnance Survey scale 1:25,000 provisional edition map, Sheet TF26 (53/26) – B
1954	Ordnance Survey one-inch 7 th series map, Sheet 114 Boston & Skegness: A Edition
1955	Definitive Map and Statement for Horncastle Urban and Rural Districts
1956	Ordnance Survey scale 1:10,560 provision edition map, TF26NW-A
1962	Ordnance Survey one-inch 7 th series map, Sheet 114 Boston & Skegness B Edition
1964	Lindsey County Council Liability for Repair Form (Thornton)
1964	Lindsey County Council Liability for Repair Form (Langton)
1969	Ordnance Survey scale 1:2,500 map, TF2468-TF2568-AA
1969	Ordnance Survey one-inch 7 th series map, Sheet 114 Boston & Skegness B Edition
c.1969	Ordnance Survey one-inch 7 th series map, Sheet 114 Boston & Skegness B/*Edition
1970	Ordnance Survey scale 1:2,500, TF2467-TF2567-AA
c.1970	Obsolete paper copy liability for maintenance map, Sheet TF 26
1972	Ordnance Survey scale 1:2,500 map, TF2268-TF2368-AA
c.1984	Obsolete paper copy liability for maintenance map, Sheet 71 (TF 26 NW)
1990	Highways Maintenance Atlas
1993	Ordnance Survey Landranger map, Sheet 122 Skegness
1995	Ordnance Survey Pathfinder map, Sheet 783 Horncastle
1999	Ordnance Survey Explorer map, Sheet 273 Lincolnshire Wolds South – Horncastle & Woodhall Spa
1999	Land Registry Title & Title Plan - LL171354
2002	Ordnance Survey Landranger map, Sheet 122 Skegness & Horncastle
2006	Ordnance Survey Explorer map, Sheet 273 Lincolnshire Wolds South
2016	Archived List of Streets
2016	Land Registry Title – LL364137

2020	Archived List of Streets
2020	Land Registry Title – LL397116
2021	Land Registry Title & Title Plan – LL45572, LL406095, LL155020, LL410894, LL410900
Undated (post- 2004)	Satellite image FindMyStreet Langton (Horncastle RD) Parish Path file CA13 parish files – Langton, Thornton Archived DMMO case files Legal Orders (DMMOs, LEMOs, PPOs) Land Registry Inspire maps showing unregistered land Routes from the Transcription (produced by Applicant)