



Order Decision

Inquiry held on 23 May 2022

Site Visit made on 23 May 2022

by **G D Jones BSc(Hons) DipTP DMS MRTPI**

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

Decision date: 20 January 2023

Order Ref: ROW/3248324

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Lincolnshire County Council Addition of Ludborough Public Footpath Numbers 1158 and 1159 Modification Order 2019.
- The Order is dated 3 May 2019 and proposes to modify the definitive map and statement for the area by adding Public Footpath Number 1158 running to and from Public Footpath Number 107 via points A-L inclusive, and by adding Public Footpath Number 1159 running from Public Footpath Number 107 to Barton Street (the A18) via points M-P inclusive, as shown on the Order map and described in the Order schedule.
- There was one objection outstanding when Lincolnshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food & Rural Affairs.

Summary of Decision: The Order is confirmed subject to the modifications set out below in the Formal Decision.

Preliminary Matters

1. The original application for a Definitive Map Modification Order was made on 18 September 2014 by Ludborough Parish Council to add a public footpath to the Definitive Map and Statement (DMS) running along a track, in a loop, from and to Public Footpath 107 in the Parish of Ludborough. During the course of the pursuant investigation further evidence was discovered by Lincolnshire County Council (LCC) as Order Making Authority in respect to an entirely different route to that applied for, which LCC has concluded was sufficient to reasonably allege that a public right of way existed on that additional route.
 2. The Order relates to both of these routes. If confirmed without modification, its effect would be to add 'Ludborough Public Footpaths Numbers 1158 and 1159' to the DMS as described in the Order. Both routes are located to the northwest of the village of Ludborough on farmland. The former is the route identified in the original application. The latter is the additional route arising from the discovery of evidence by LCC. It also adjoins Public Footpath 107, from which it runs in a roughly north-western direction where it meets Barton Street, the A18. For ease of reference I shall refer to the two routes as the '1158 route' and the '1159 route' respectively henceforth.
 3. In the event that I decide that the Order should be confirmed, LCC has requested that the grid references in the Order be amended to give the correct, full 12 figure numerical grid reference. In the interests of precision, I agree.
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The Main Issue

4. LCC has relied upon Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 (the 1981 Act), such that the main issue for both routes relates to whether or not, on the balance of probabilities, the evidence shows that public footpaths subsist over the two routes identified in the Order.

Reasons - 1158 Route

5. The 1158 Route runs entirely along a farm track, starting at point A on Public Footpath 107, as shown on the Order map, some 200m roughly west of the end of Chapel Lane in Ludborough Village. It runs roughly northward for some 1274m to point E where it turns roughly westward for some 95m to point F. From point F it turns roughly northward running for some 140m to point G, from which it runs roughly westward again for some 415m to point H. It then turns roughly southward for some 1318m to point L where it re-meets Public Footpath 107. While LCC relies on user evidence for confirmation of this route, a range of documentary sources have also been provided, which I consider first.

Documentary Evidence - Route 1158

Inclosure Evidence

6. The evidence includes the 1774 Inclosure Act for Ludborough and the 1775 Inclosure Award for Ludborough. Neither of these documents refer to or show any routes in the location of the 1158 Route.

Various Commercial County Maps of Lincolnshire of 1779, 1787, 1828 & 1830, and 1806 New Map of Great Britain & Ireland by C. Smith

7. These maps are of very limited assistance as at most they provide a generalised view of the location of roads and places in Lincolnshire and do not show footpaths. In any event they show no routes in the location of the 1158 Route.

Ordnance Survey Maps – 1818, 1824 & 1856

8. While all three of these Ordnance Survey (OS) maps show roads, tracks, localities and some features within the landscape, none of them include footpaths or routes in the location of the 1158 Route.

1850 Tithe Records

9. The Tithe Plan, associated with these records of the apportionment of the rent-charge in lieu of Tithes in the Parish of Ludborough in the County of Lincoln, shows only two of the parcels of land subject to the 1158 and 1159 Routes as numbered, parcels 5 and 14. No routes are shown in the location of Route 1158.
10. Only two assessments are listed in the associated Tithe Apportionment, assessments 14 and 59. Although assessment 14 is relevant to Route 1159 and as such dealt with later in my decision, neither are relevant to Route 1158. No routes are recorded in the Tithe Apportionment against either assessment entry.

Ordnance Survey Maps - various years from 1887 to 2006

11. The various OS maps from 1887 to 1955 show no more than routes along parts of the 1158 Route. From what can be seen on the maps, it seems most likely that the

routes shown would have served as private access to the properties shown, such as The Platt and Scotland Yard, and/or adjoining land.

12. The subsequent OS maps provided generally show a road in the location of the 1158 Route appearing to form part of a wider network of roads or accesses. However, it is not possible from these maps to distinguish if the routes shown along the 1158 Route carried a public right of way.
13. It is also worth noting that as the purpose of these maps was to record features in the landscape, their surveyors were not tasked with identifying the rights which might have existed over any routes. Consequently, it is not possible to establish from them alone whether or not such routes are a public right of way.

Finance (1909–10) Act 1910

14. The draft valuation plan associated with this Act, using an OS base, shows the land subject to both Order Routes lies wholly within hereditament 13. The associated valuation book records no deduction for "public rights of way or user" against the entry for hereditament 13. While this does not rule out the possibility, it strongly suggests that no rights of way were acknowledged at that time given that the declaration of a right of way would lead to a reduction in the duty payable for the land.

Highways Handover Map

15. This map relates to the transfer of the responsibilities for public highways from Louth Rural District Council to Lindsey County Council on 1 April 1930. It shows those county roads which were considered to be maintainable at public expense at that time and is comparable to the 1923 OS map referenced above. Neither of the two Order Routes are marked on the handover map as publicly maintainable highways.

1947 Bartholomew's Map

16. This map shows no routes in the location of either of the Order Routes.

1951 Parish Path Survey

17. This survey was produced pursuant to the requirement of the National Parks and Access to the Countryside Act 1949 for Lindsey County Council, as surveying authority at that time, to draw up a DMS recording the existence of public rights of way in its area. A survey of the paths in Ludborough Parish was undertaken by the Chairperson of the Parish Meeting, a resident of the village, which was considered at a meeting of the parish and then submitted to the then County Council for consideration. Neither Order Route was included in the survey.

1952 Sale Properties of the Livesey Settle Estate

18. The land subject to the Order Routes is shown in the plan as forming Lot 44. The particulars record no ways, public or private, against the land parcels that comprise this Lot.

1969 Draft Map with Modifications for the area of the Rural District of Louth

19. Although the Draft Map and Statement have not survived, the Draft Map with Modifications has. The 1158 Route is not marked on it as to be deleted, added or

corrected. The notice dated 25 April 1969 advertising the preparation of the Draft Map with Modifications does not list any routes in the Parish of Ludborough that were intended to be added to, deleted from or corrected in the Draft Map and Statement. LCC states that this, together with the absence of this Route from the DMS, suggest that the 1158 Route was not shown in the Draft Map. I have found no reason to disagree.

1971 Aerial Photograph

20. A track is apparent in the location of the 1158 Route forming part of a wider network of tracks. It is not possible to tell from this image the status of the track or whether it was subject to any public use on the date it was taken.

1972 Definitive Map for the area of the Rural District of Louth

21. Unsurprisingly, given the nature of the Order, no public right of way is recorded in the 1972 Definitive Map in the location of either Order Route.

1990 Maintenance Areas Atlas

22. This is a record of the roads and lanes which the local Highway Authority considered to be highways maintainable at public expense. No such routes are shown in the location of either Order Route.

Undated Maps

23. There is an assortment of other, undated maps within the evidence. In a similar manner to the OS maps, these either do not show the Order Routes at all or show routes along limited sections of the 1158 Route only. As their age is unclear, show no more than partial coverage along Route 1158 and none along Route 1159, and provide no indication of whether the shown routes are public or private, they are of very little assistance.

User & Landowner Evidence - Route 1158

24. The case made for confirmation of the Order in respect to Route 1158 concerns its uninterrupted public enjoyment, as of right, for a full period of 20 years under Section 31 of the Highways Act 1980 (the 1980 Act). LCC maintains that the notices erected at both entrances to Route 1158 in 2011 stating, *R.CAUDWELL (PRODUCE) LTD This way is not dedicated as a public right of way under section 31 of the Highways Act 1980. Permissive Path Only. This may be closed at any time. Please keep to the track. Access to any other land is prohibited*, were sufficient to have brought in to question the public's right to use this Route. On this basis the relevant 20 year period is 1991-2011. I have found no good reason to disagree.
25. The written user evidence indicates that 21 people used the track during that 20 year period, four of whom gave evidence at the Inquiry in support of the confirmation of Order Route 1158. The evidence indicates that at least 12 of these people used it at the start of the 20 year period, and that 20 of them used it by the end of the period, with 12 people's use of it spanning the relevant 20 year period. All 21 people had walked the track during the 1991-2011 period. The frequency with which they say they used the track on foot varies from twice daily to several times a year, with three people saying that they used it at least daily, seven that used it at least weekly, and six that they used it at least monthly.

26. The user evidence also refers to use of the track other than on foot, for instance four of the 21 people who used it during the 20 years period say that they have cycled it. However, such use is fairly limited, with only one person having used it on a bicycle throughout the whole period, and infrequently, with only one person saying they used it on a weekly basis.
27. The wider user evidence indicates that some users had permission to use the track. However, the 21 users referred to above all indicate that they did not have permission to use it. The evidence indicates that use by these 21 people was without force and secrecy during the relevant 20 year period. They all also indicate that their use of the track went unchallenged during that time. While not referred to by any of those 21 users, the objector / land owner states that walkers were told not to use the track during the shooting season each year for reasons associated with health and safety.
28. The evidence also indicates that there were several occasions during the relevant 20 year period when various groups obtained permission from the landowner or occupier to use the track for fundraising walks. Some of the 21 users report that they used the track for sponsored walks and to access 'pick your own' strawberries in adjoining / nearby fields.
29. Of the 21 users of the track during the relevant period, eight indicate that they frequently encountered others, mainly local people, using it. Although the objector maintains that there are no houses directly overlooking the footpath areas, LCC contends that two others amongst the 21 users live in a house overlooking part of the track, who advise that they 'quite frequently' / 'often' saw local people using the track before it was 'closed'.
30. The objector maintains that family members engaged in running the farm were there on a regular basis and that they had a manager who was there constantly. The objector states that during this time in the 1990s, *people simply did not walk around the headland unless they had permission*. From 1994, when he started working in the business full-time following a period when he moved away to attend college, he states that sometimes he would be on the track once or twice per day, and at others twice per hour, such that he *attended the track consistently, regularly, and daily*. He also states that when he was not on the track others from the family and workers would be.
31. The objector also maintains that his father, who ran the farm before him, dealt with matters as he has done, *challenging people who should not have been on the track, and otherwise giving permission if felt appropriate, for example the church groups*. He expressly refers to one of the people who completed a user evidence form as knowing full well that she asked for permission to use the track, and adds that *we were happy for the permission to stand unless and until revoked, without her (and others) having to keep asking time and time again*. I note, though, that the person in question is not one of the 21 users LCC relies upon as she used the track with the permission of the landowner or occupier from before 1991.
32. The objector also states that of the 21 users of the track cited by LCC, 10 are connected. They appear to be five couples. The objector contends that less weight should be given to their submissions on the basis that they may not have been produced entirely independently. He also indicates that not all of the 21 users claimed use cover the full 20 year years period in question. He also refers to one stating that she was *always given to understand this was a permissive path*, while

another states that she was given permission to drive along the route and also had permission to use the track as part of a fundraising walk.

33. Additionally the objector refers to implied permission and second-hand permission to use the track. Three of the 21 users referred to above are said to have indicated that they had implied permission on the basis that one states the footpath was *previously permissive*, while two others state *access was freely given to the route when the public was able to purchase strawberries etc from the fields, and when the fields were used for strawberries, public access was welcomed by the owner and all footpaths were freely accessible*. In respect to 'implied second-hand permission', the objector quotes from four of the user evidence forms supplied as part of the evidence from the 21 users concerning word of mouth understanding amongst villagers that the track could be used.
34. The objector maintains that there is insufficient evidence of use of the track by non-villagers. He also states that some people used the track for fund-raising events, including four people among the 21 relied on by LCC. He also quotes the user evidence, including from three of these 21 people, that refers to access to the pick your own strawberries business, which he considers to be express consent. The objector also quotes a letter that accompanies the original application by Ludborough Parish Council, including reference to use of the track in the full knowledge of the owners and in some instances to it being with the permission of the owner.
35. The objector also refers to what is described as alterations made to the evidence of users following intervention by LCC officers, that some of the 21 users relied on by LCC fail to mark the location of the notices and some fail to correctly identify when they were erected, some mention gates and stiles that are not on the 1158 Route, and there is inconsistency regarding the alignment and appearance of the Route.
36. The objector also refers to a letter from a resident of the village, which supports his opposition to the Order. Amongst other things, it states that after moving to the area in 1993, he and his wife started to walk the farm tracks and were stopped by the objector's father who advised them that it is private property but gave them permission to use the farm tracks to walk and that this permission was extended by the owner in 2014. The author of the letter adds that he believes that that conversation is one that the objector's father would have had with other villagers, but suggests that many of those people who have provided evidence of use of the track have chosen to forget.

Assessment and Conclusions on Route 1158

37. Although the documentary evidence supports that a route has existed along Route 1158 as a feature in the landscape in parts between 1887 and 1955 and in whole thereafter, this alone does not provide sufficient evidence to show that the Route is subject to a public right of way. Equally, the instances where the route is not shown in the documentary evidence are not significant given the source date of such evidence relative to the user evidence and the basis on which the Order for Route 1158 was made.
38. All the people that LCC relies upon in terms of user evidence lived in the village when they used the track. Nonetheless, given the nature of the Route as a loop, albeit connected to the wider rights of way network, and its location on the edge of the village, it is not surprising that the user evidence is limited to people who used it

when they lived in the village, particularly bearing in mind that any potential users from further afield are less likely to be known. In the circumstances, therefore, I see no overriding reasons why reliance solely on users from the village, without non-villagers, should attract reduced weight. Indeed it is not uncommon for such cases to be reasonably supported by evidence of use wholly from the local community.

39. Accordingly, as a matter of principle, I see no reason why residents of the village cannot represent the public at large without evidential input from users from elsewhere. Moreover, given the reasonably modest size of the village, the 21 users provide a reasonable, proportionate representation of the local community and, in turn, of the public at large.
40. I recognise that some of the 21 users had permission, directly or indirectly, to use the route as part of the fund raising events and to access strawberry picking. Nonetheless, such permission or licence appear to have been specific to those events / activities, whereas the evidence of those 21 users collectively indicates that the predominant use of the track was outside these activities, which seem likely to have been fairly limited given their frequency and nature. It is also clear that, at least some, other people had general permission to use the route.
41. The objector suggests that his and other parties involved in the farm business observation of the use of the track are not consistent with uninterrupted public enjoyment of the 1158 Route without interruption during the full 20 years in question. Nonetheless, from the evidence before me, including what I heard at the Inquiry, there appears to have been sufficient occasion when he or others connected with the farm would not have been in the vicinity of the track to allow the type and level of use recorded by the 21 users to have gone unobserved without involving secrecy. In any event, nine of them indicate that they were seen or engaged by the landowner / their employees when using the track without anything being said regarding their use of the route.
42. I also note the submissions regarding an understanding amongst villagers that the track could be used. However, there is no substantiated evidence that any such understanding, be it an implied permission or a second-hand permission, that might have existed, was as a consequence of any form of permission being granted by the landowner.
43. It is clear that at least some users of the track during the relevant period were challenged by or on behalf of the landowner, and that some were expressly given permission to use it. Nonetheless, notwithstanding assertions to the contrary, from what I have read, heard and seen during the decision-making process, there is nothing that seriously calls into question the evidence of the 21 users relied upon by LCC in terms of their frequency of use of the track or the period of time over which their use of it occurred.
44. Notwithstanding the inference, there is no evidence of collusion between the 21 users relied upon by LCC. I recognise though that there are some contradictions and inconsistencies within the user evidence, including how certain details were described and recorded, such as the date and location of the notices, the presence or otherwise of features, such as gates, stiles and rubble, the appearance of the Route and the details of some aspects of its alignment. Nonetheless, in its totality, including the tested oral evidence of the four witnesses who were called by LCC at the Inquiry, the user evidence builds a convincing picture of use of the Route on

foot throughout the 20 years period in question, notwithstanding that over 10 years has now passed since the end of that period.

45. The evidence indicates that the track has been closed from time to time, notably during the hunting season. Nonetheless, this would not amount to an interruption in the meaning of section 31(1) of the 1980 Act. There is no evidence of any overt acts during the 20 years period in question by landowners, tenants or their agents, such as notices / barriers, to conveyed to the users of the track that they had no intention of dedicating it as a public right of way. Moreover, no maps and statements or declarations concerning the land in question have been lodged with LCC under section 31(6) of the 1980 Act.
46. Overall, when considered together, the user evidence, particularly that of the 21 people referred to above, demonstrates the use of the track throughout the relevant 20 years period without interruption. For the foregoing reasons, I also consider that that use was predominantly without permission. There has, in my view, also been sufficient use and enjoyment of the track, as of right, to raise the presumption of dedication of a public right of way and insufficient evidence of a lack of intention to dedicate by or on behalf of the landowner.
47. I consider that the mode of use of the track by the users is consistent with the status of a footpath. While there is evidence of a small amount of use by means other than on foot, it is not sufficient to have given rise to dedication beyond use as a public footpath.

Reasons - Route 1159

48. The 1159 Route starts at point M on Public Footpath 107, as shown the Order map, some 225m roughly west of the end of Chapel Lane. It runs generally north-westward, firstly for some 308m to point N, then 59m to point O and then some 1021m to point P where it joins Barton Street. There is no route apparent on the ground in the location of the 1159 Route.
49. LCC relies solely on documentary evidence as regards this route. Indeed, as outlined below, the pathway in question appears to have been unused since some point during the 1800s.

Documentary Evidence - Route 1159

Inclosure Evidence

50. The 1774 Inclosure Act for Ludborough provided the Commissioners with the powers to appoint and set out public and private roads or ways. The associated 1775 Inclosure Award records that the Commissioners had set out and appointed three footways in Ludborough Parish, in accordance with the powers provided by that Act.
51. One of these footways is described in the Inclosure Award as running from ancient inclosure 51 across allotment 7 to a stile on the south side of ancient inclosure 53, and then as running from the north side of ancient inclosure 53 across allotment 5 to the northwest corner of ancient inclosure 54 before continuing northwest to the 'Barton Street Road'. The plan which accompanies the Inclosure Award refers to this footway as the 'Foot Road to Cadeby', which also shows the footway as running across the ancient inclosure 53. This 'Foot Road to Cadeby' corresponds with the 1159 Route, running between the 'Foot Road to Wyham' and the 'Barton

Street Road', what are now known as Public Footpath 107 and the A18 respectively.

52. LCC maintains that it is likely that the Inclosure Award does not describe the footway as passing over ancient inclosure 53 on the basis that it does not record that the Commissioners had allotted or set out this or any of the other ancient inclosures shown coloured green in the plan, such that the ancient inclosures were excluded from the inclosure process. This appears to be consistent with the treatment of the 'Foot Road to Wyham', which is not referred to in the Inclosure Award yet appears on the plan.
53. The Inclosure Award does not expressly state whether the three awarded footways are public or private. Nonetheless, the footways are listed in the Inclosure Award immediately after the awarding of the public roads and there is no record in the Inclosure Award of any private roads having been appointed or set out by the Commissioners. The 'Foot Road to Wyham' is recorded in the DMS as Public Footpath 107, while part of one of the two other footways described in the Inclosure Award and shown in its accompanying plan as running to the Utterby Lordship is recorded in the DMS as Public Footpath 106.

1850 Tithe Records

54. As outlined above, the relevant Tithe Plan shows no routes in the location of the 1159 Route. Only two assessments are listed in the associated Tithe Apportionment, assessments 14 and 59. Assessment 14 is relevant to Route 1159. The Tithe Plan shows a route described as the 'Foot Road to Cadeby' in the location of the 1159 Route consistent with the footway recorded in the Inclosure Award described above. Route 1159 also crosses the land that is the subject of assessment 14 of the Tithe Apportionment. Nonetheless, no routes are recorded in the Tithe Apportionment against assessment 14.

Ordnance Survey Maps - various years from 1887 to 2006

55. Although many of these OS maps show no routes in the location of the 1159 Route, the 1887 and 1888 maps are of greater relevance. Two other footpaths are shown. The first is shown running west northwest between two minor roads, however, it appears to have a different alignment to the 'Foot Road to Cadeby' shown on the Inclosure Award and to the 1159 Route. The second footpath shown clearly lies in a different location to the 1159 Route. For the reasons outlined above regarding Route 1158, it is not possible to ascertain from these maps alone if these minor roads or footpaths are subject to a public right of way.

Finance (1909–10) Act 1910

56. For the reasons outlined above regarding Route 1158, while this evidence does not rule out the possibility, it indicates that no rights of way were acknowledged at that time in the vicinity of Route 1159.

Other Records

57. There are a range of other records within the documentary evidence as outlined in respect to Route 1158. However, none of these indicate the presence of a path or right of way in the vicinity of Route 1159.

Assessment and Conclusions on Route 1159

58. There is no documentary evidence that explicitly identifies Route 1159 as a public right of way. Nonetheless, when viewed together, the 1775 Inclosure Award and the accompanying plan suggest that the footway appointed and set out by the Commissioners formed part of a continuous footway or foot road which ran from the outskirts of Ludborough village between what are now Public Footpath 107 and the A18.
59. While these documents do not expressly record this footway as either a public or private right of way, the three identified footways immediately follow the public roads in the Award listing, which suggest that they too are public. Moreover, the Award does not record that the Commissioners had specifically appointed or set out any private roads or footways, such that there is no clear reason why these footways would be recorded other than if they were public.
60. The drawing up of the Inclosure Award would have been the final part of the enclosure process such that it recorded the land which had been enclosed and the public roads and footways which had been appointed and set out by the Commissioners. Bearing this in mind, in the context of the foregoing points, on the balance of probabilities, it is most likely that Route 1159 was set out as a public right of way at that time. Moreover, the fact that the 'Foot Road to Wyham' and part of another footway are treated in a similar manner to Order Route 1159 in the Inclosure Award and accompanying plan and are currently public rights of way lends further support for the Route's status as a public footpath.
61. The plan dated 1852 that accompanied the 1850 Tithe Apportionment appears to have been based, at least in part, on the plan that accompanied the Inclosure Award given that there are similarities in how some of the names of the landscape features and numbers / sizes of the parcels are treated. While far from conclusive, the footway's presence on this map, suggests that it may have still been a feature in the landscape in 1852. No more than that can be drawn from the Tithe evidence though, and it provides no support for Route 1159's potential status as a public right of way.
62. I also note the objector's submissions in respect to the Route not appearing on any of the maps within the evidence dating from after the Inclosure Award and before the Tithe Apportionment, such as the 1779 Armstrong Map of Lincolnshire and the 1787 Cary's Map of Lincolnshire. However, this is unsurprising given that they do not appear to show any footpaths / footways. Therefore, these maps are of little assistance in making my assessment.
63. It has also been suggested that Route 1159 might have been a private or permissive route, for instance to access private property along the Route and / or to provide access between Ludborough and Cadeby, the latter of which I note seems likely to have been private property rather than a settlement in the sense that Ludborough was and is today. Nonetheless, the evidence does not suggest that there were any dwellings along the Route at the time of the Inclosure Award or the Tithe Apportionment. Furthermore, comparison with later maps indicates that Platts Cottage, for instance, was not located along the Route. Nor does it follow that if Cadeby was private property that the Route would not have been public, particularly bearing in mind that there is an intervening public highway.

64. Thereafter the absence of the footway in documentary evidence implies that it had fallen into disuse / disappeared from the landscape at some point. This though would not alter its status if it were a right of way. Indeed, the foregoing considerations suggest that the footway, along Route 1159, had been set out as part of the enclosure process during 1774 to 1775 as a public way. On this basis, although it fell into disuse many years ago, this footway remains a public footpath.
65. The width of the footway is not determinable from the available information. While the Inclosure Award specified a width for public roads, it did not for any other type of way awarded. In the circumstances, with reference to the Department for Environment, Food and Rural Affairs Rights of Way Circular 1/09, LCC's approach, based on the type of user and allowing for two users to pass comfortably, is appropriate. Accordingly, a width of 2m is suitable.

Other Matters

66. Other considerations have been raised, particularly by the objector. These include matters associated with potential anti-social behaviour, vandalism, theft, damage to crops / equipment, and matters of health and safety that might be associated with the use of the Order routes, and that Route 1159 is not wanted or needed by the community. While I have no doubt that such matters are of concern to those who have raised them, they are not relevant to a determination made under Section 53 of the 1981 Act. Consequently, none of these considerations or any other points raised affect the foregoing findings.

Conclusion

67. Having regard to these and all other matters raised both at the Inquiry and in written representations, I am satisfied on the balance of probabilities that public footpaths subsist along both Order routes such that the DMS should be modified accordingly. Therefore, the Order should be confirmed subject to the modifications referred to at paragraph 3 above, which do not require advertising.

Formal Decision

68. I confirm the Order subject to the following modifications:
- In Part I (i) of the Schedule to the Order, Public Footpath Number 1158, replace the respective Ordnance Survey Grid References as follows, for Point A replace with 529138,395455, Point B replace with 529040,395594, Point C with 598971,396012, Point D with 528822,396252, Point E replace with 528655,396606, Point F replace with 528567,396571, Point G replace with 528474,396680, Point H replace with 528132,396444, Point I replace with 528220,396270, Point J replace with 528532,395666, Point K replace with 528620,395495, and Point L replace with 528733,395275;
 - In Part I (ii) of the Schedule to the Order, Public Footpath Number 1159, replace the respective Ordnance Survey Grid References as follows, for Point M replace with 529120,395447, Point N replace with 528819,395514, Point O replace with 528789,395565, Point J replace with 528532,395666, and Point P replace with 527838,395915;
 - In Part II (i) of the Schedule to the Order, Public Footpath Number 1158, replace the respective Ordnance Survey Grid References as follows, in line 2 with 529138,395455, in line 4 with 529040,395594, in line 7 with 598971,396012, in line 9 with 528822,396252, in line 11 with 528655,396606, in line 13 with

528567,396571, in line 15 with 528474,396680, in line 17 with 528132,396444, in line 19 with 528220,396270, in line 22 with 528532,395666, in line 24 with 528620,395495, and in line 27 with 528733,395275; and

- In Part II (ii) of the Schedule to the Order, Public Footpath Number 1159, replace the respective Ordnance Survey Grid References as follows, in line 2 with 529120,395447, in line 3 with 528819,395514, in line 5 with 528789,395565, in line 6 with 528532,395666, in line 9 with 527838,395915.

G D Jones

INSPECTOR

APPEARANCES

For the Order Making Authority:

Andrew Pickwell representing Lincolnshire County Council

He called

Himself as Definitive Map Officer

Pamela Keay former resident of Ludborough

Bryan Fortune local resident

John Loomes former resident of Ludborough

David Porter local resident

For the Objector:

Rowena Meager of Counsel representing R Caudwell (Produce) Ltd

She called

Struan Abbott Director of R Caudwell (Produce) Ltd

INQUIRY DOCUMENTS

1. Map showing the location of the strawberry fields referred to in the evidence
2. Objector's Supplementary Bundle
3. Legal Submissions on Behalf of the Objector document

COPY OF ORDER MAP – NOT TO SCALE

