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| **Order Decision** Hearing held on 6 February 2024Site visits made on 6 February 2024 and 8 May 2024 |
| **by C Beeby BA (Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 May 2024** |

**Order Ref: ROW/3301332**

* This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Rutland County Council District Council (Langham) Definitive Map and Statement Modification Order No.1 of 2021.
* The Order is dated 22 December 2021 and proposes to modify the Definitive Map and Statement for the area by the addition of a public bridleway in the parish of Langham between Cold Overton Road and the county boundary at Ranksborough Hill, as shown in the Order plan and described in the Order Schedule.
* There were six objections outstanding when the Rutland County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation. Two objections were subsequently withdrawn.

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| **Summary of Decision: The Order is not confirmed.** |

**Preliminary Matters**

1. In writing this decision I have found it convenient to refer to points marked on the Order Plan. I therefore attach a copy of this plan.
2. The Order was made following a successful appeal under Schedule 14 of the 1981 Act against a decision by the Order Making Authority (OMA) not to make an Order. The OMA was directed (Ref. FPS/A2470/14A/2) to make an Order on 12 October 2017. It is consequently taking a neutral stance on the Order, with the British Horse Society taking the matter forward.
3. I made a site visit to view the Order route prior to the hearing. Due to the attendance of only the supporter and the OMA at the hearing it was determined, in this case, to be most efficient to determine the Order by means of a written exchange of evidence. Following the subsequent submission and circulation of additional evidence, I made a second site visit to view the connecting Public Bridleway D85 in Leicestershire.

**Main Issues**

1. The Order has been made under Sections 53(3)(c)(i) and (ii) of the 1981 Act, which require me to consider whether the evidence shows that a public bridleway subsists over the Order route, and whether the highway already shown in the definitive map and statement should be shown as a highway of a different description. The test for confirmation of the Orders in respect of both the recorded and unrecorded sections is whether a right of way subsists on the balance of probabilities.
2. The submitted evidence is solely documentary. As a result, Section 32 of the Highways Act 1980 (“the 1980 Act”) is additionally relevant. This requires me to take into consideration any map, plan or history of the locality, or other relevant document provided, giving it appropriate weight, before determining whether the way has been dedicated as a public bridleway.

Background

1. Section A-D of the Order route is a proposed addition to the definitive map and statement of a section of bridleway. Section D-E is a proposed upgrade of part of Rutland Public Footpath D85 to bridleway. At Point E the Order route ends at the county boundary, where it meets the eastern terminus of Leicestershire Public Bridleway D85. A short section in the centre of that path passes through Rutland due to the route of the county boundary, and has the status of public bridleway according to the applicant.

Reasons

***Documentary evidence***

 *“Common Right and Private Interest – Rutland’s Common Fields and their Enclosure” by Ian E Ryder (Rutland Local History & Record Society – Occasional Publication No 8)*

1. This book contains a Gazetteer with notes on the history of various settlements. The entry for Langham states “enclosed c1605-1624 as leases ran out”.

*A Trew Plot of the Manour of Langham in the Countye of Rutland (1624)*

1. This is an estate map produced following a purchase of land, to assist in determining its usage and leases. The available version was produced by Langham Village History Group, and comprises a copy of the original document produced in digital form.
2. The copy provided depicts ways between the plots by red, buff and brown colouring. The red and buff routes generally correspond to modern roads. Most of these are annotated with destinations where they pass out of the village, for example “the waye from Langham to Melton Mowbray” and “the waye from Langham to Ashwell”.
3. A short section only of the Order route is shown, passing north west from Point A to approximately Point C. It is coloured brown and annotated “To the mill”. A mill is marked at the route’s northern terminus.
4. Other routes depicted in the same colour as the Order route include part of the recorded public footpath to the north of Manor Lane, which is annotated “the waye to Thomas Ives plot” and shown as a cul-de-sac route leading to a field in his occupation. A further route in the same colour is annotated “Mickley lane The Waye to the Lords Plot” (a cul-de-sac route leading to a field named “The Lordes Plot”). No key is available to assist in the document’s interpretation.

*“Mills and Millers of Langham” by Ann Grimmer (Langham Village History Group)*

1. This document states that the 1624 plan shows “a short lane branching off to the right from the road leading to Cold Overton at the end of which is a post mill…However, a later map of 1760 shows only a post mill at the top of Multey Hill”. The document states that Multey Hill was a mill elsewhere in the village. A map shows the Order route mill as a 16th century post mill.

*Survey and Map of the whole Manor of Langham in the County of Rutland, 1760*

1. The mill is no longer depicted. Ways are shown by a sienna colouring. These include modern roads, Public Bridleway E153 to the south of Cold Overton Road, and the public footpath north from Manor Lane in the village (to Thomas Ives’ plot in the earlier document). Some ways are shown without boundaries, some are shown between two boundaries, potentially depicting fences, and some with one.
2. This variation extends to the Order route, which is coloured sienna and shown between two solid boundaries between approximately Points A and B, and then passing along a field edge between approximately Points B and C, where it then follows every boundary of a field named “Atkins’s Close” in a square shape. It is shown to be open to the highway at its southern end.
3. The 1760 map additionally shows Bridleway E153 passing the mill shown in the “Mills and Millers” document to lie at “Multey Hill” (named “Mill Spellow” on the 1760 map). “Ranksborough Hill Close” is depicted at the location of the later Ranksborough Gorse fox covert.

*A Map of the Tract of Country surrounding Belvoir Castle by W King, 1806*

1. This map was produced for the Duke of Rutland, and was sold as a hunting map. The map shows “public carriage roads” uncoloured between double solid lines. Bridleway E153 is shown in this way, and is open to the highway. The public footpath to the north of Manor Lane is shown as a “stub” of route which is uncoloured between double solid lines, and which is open to the highway. A single line is present along approximately sections A-C of the Order route only, showing a “Bridle Road” according to the key. The route is not open to the highway. The key does not include a notation for footpaths. Ranksborough Hill Covert is marked near Point E. The former mill at point C is no longer shown.

*David & Charles reprint of the 1st Edition OS Sheet 44 “Oakham” (undated)*

1. This document appears to be dated 1824. The map shows vehicular highways between double solid or dashed lines. Bridleway E153 is shown by one dashed and one solid line, or two dashed lines, with a track to “Langham W. Mill” leading off it. It is open to the highway. Approximately sections A-B of the Order route only are shown, between double solid lines and terminating in a small enclosure, echoing the square shape shown in the 1760 map. The route is not open to the highway at point A. Part of the public footpath to the north of Manor Lane is shown between double solid lines and open to the highway. The fox covert is not named, although an enclosure of some kind is drawn at its approximate location.

*Tithe Map for Langham, 1841*

1. Although a key is not available for the map, routes in the area are shown by a sienna colour. This includes part of the recorded public footpath to the north of Manor Lane, part of Bridleway E153 and approximately section A-C of the Order route. Section A-B is shown between double solid lines and open to the road. Section B-C is shown apparently between double dashed lines. According to the digital version supplied the route passes between named field parcels including “Mill Close”, “Pasture Close” and “Ploughed Piece”. The Ranksborough fox covert is not shown.

*Ordnance Survey 6 inches to 1 mile map, Rutland sheet V.SW, First Edition, 1842*

1. Sections A-C of the Order route are shown, and part of section C-D. A-B is depicted as a tree-lined track between double solid lines and with a line present across its junction with Cold Overton Road. B-C of the route is shown as a path either between one dashed and one solid line, or between two dashed lines. The path is marked “B.R.”. A path is marked between double dashed lines to pass from Melton Road to join point B of the Order route, with the annotation “F.P”. Bridleway E153 is shown between a solid and dashed line. It is unclear whether it is open to the highway. The map extract provided does not include the area of land crossed by the western section of the Order route.

*Extract from the Lincoln, Rutland & Stamford Mercury newspaper, 1850*

1. This records that the Cottesmore Hounds met in Langham in January.

*Ordnance Survey 6 inches to 1 mile map, Leicestershire Sheet XXVII.SE, First Edition, 1884*

1. A track is marked “B.R.” passing west from point D. It follows a different route from the Order route, although the section west of the annotated fox covert is the same. No other access to the covert is discernible. The path continues as a bridle road in Leicestershire.

*Ordnance Survey 25 inch, Rutland Sheet V9, First Edition 1884*

1. The map shows approximately section B-C of the Order route as a track marked “B.R.”. Section A-B is shown as an enclosed route with a boundary at point B. A dashed path marked F.P. joins the route from the east at approximately point B. Ranksborough Hall is not yet depicted.
2. The map does not show section D of the Order route to Ranksborough Gorse; instead a route on a different alignment is depicted. The Order route between Ranksborough Gorse and point E is shown. Bridleway D85 in Leicestershire is shown to join the route, and is annotated “B.R.”.

*Ordnance Survey 1:2500, 1885*

1. This document shows the same features as those present on the 1884 Ordnance Survey (OS) Map.

*Ordnance Survey 6 inches to 1 mile, Rutland V.SW Sheet, 2nd Edition, 1904*

1. Ranksborough Hall is shown for the first time on this map. The Order route between approximately sections A and B forms a track which leaves Cold Overton Road before passing through woodland to the south east of the hall. A line is drawn across its junction with the highway. The path between Melton Road and point B of the route is not shown. A track is marked around the northern edge of the Ranksborough complex.

*Ordnance Survey 6 inches to 1 mile, Leicestershire XXVII.SE Sheet, 2nd Edition, 1904*

1. This map shows approximately sections D-E of the Order route, more closely reflecting the route than the 1884 OS map. It is not annotated with lettering and is shown as a track between double dashed lines. No other access to the Ranksborough Gorse fox covert is shown.
* *Richard Westbrook Baker’s letter to the Hon. H.C. Lowther, 1857*
* *Preston Enclosure Award, 1774*
* *“Improving Agriculture in Nineteenth Century Rutland”: The Life and Achievements of Richard Westbrook Baker (Vanessa Doe, Rutland Local History & Record Society)*
* *Extract from “Foxhunting in Paradise” (Michael Clayton, 1993)*
* *Modern Ordnance Survey map showing Preston*
1. Richard Westbrook Baker was steward of the Exton Estate in the nineteenth century. The letter states that a pasture field in the parish of Preston, Rutland had been planted as a fox covert in 1843 but that the cover had been little used and asks whether H.C. Lowther wished to keep it as a cover. It states that Ranksborough Cover was taken from Widow Sharpe in 1820 to be occupied as a cover for an annual rental fee. It asks H.C. Lowther whether they wish to continue to tenant land.
2. Extracts from the Preston Enclosure Award of 1774 and a modern OS map are cross-referenced in support. A photograph of the award shows the title “Bridle Way from Preston to Martinsthorpe” in its margin, and it is submitted that the bridleway in question was set out in the text. The OS map shows a public bridleway between Preston and Martinsthorpe to pass a named fox covert. It is suggested that the covert is the one planted in 1843 and referred to in the letter.
3. The foxhunting book extract states that coverts were planted and maintained by hunts, who spent large amounts converting and maintaining patches of gorse and planting trees and shrubs to create ideal habitats for foxes.
4. The book about Richard Baker records that he said in 1826 that people who had not been able to find work on farms were “now employed on the roads” at Langham, costing the parish £11 per week. It is submitted in support that this may have included maintenance of the former mill track which provided access to fields and, it is suggested, the fox covert.

*Ordnance Survey 1 inch to 1 mile, “Oakham & District”, Sheet 64, 3rd Edition, 1909*

1. Sections D-E of the Order route are depicted by a single dashed line which meets the recorded bridleway in Leicestershire, which is shown in the same way, as is Bridleway E153. According to the key the route is a footpath, although the key does not include a bridle road category. Sections A-D of the route are not shown; instead the route passes east to meet Melton Road via the remaining section of recorded Footpath D85 to the north of Ranksborough Hall. The fox covert wood is no longer marked as such, with the area being annotated “Ranksborough Hill”.

*Grantham Journal report of Rutland Rural District Council Meeting May 1913*

1. This recorded a discussion about “blind roads” in the area. The committee considered that two roads in the area were repaired by the parish in former times. An attendee said that “they had two or three similar roads at Langham, which they had proved were formerly repaired by the old Parish Surveyor, but the Council had declined to take them over”. A view was expressed that “wherever it had been found that the old highway surveyors had repaired a road it was laid down that these should continue to be, mended”. It was stated that “the road…referred to at Langham led to three farmhouses, besides cottages, and the Council would not do that”. It was commented that the Langham road had been discussed several times, but that the committee “could not get it done”. It is submitted in support that “blind roads” was an expression meaning cul-de-sac roads, and that three such routes were shown on the Langham Tithe map, suggesting that these were formerly maintained by the parish.

*Cassini Reproduction of Ordnance Survey Popular Edition “Grantham”, 1921-22*

1. The route is shown in the same way as on the 1909 map, although the key now includes bridle and footpaths, and it is depicted as one of these. Bridleway E153 is shown in the same way.

*Cottesmore Hunting Map, Langham (from 1939)*

1. This map shows vehicular highways by a sienna or red colouring. “Bridle & Footpaths” are shown by a single dashed line, including Bridleway E153, the public footpath north from Manor Lane in the village and the continuation of the Order route as Bridleway D85 in Leicestershire. Section D-E of the Order route is shown as a bridle or footpath passing through Ranksborough Gorse fox covert. The path continues east towards Langham on a route which corresponds with Footpath D85. Sections A-B-C-D of the Order route are not shown.

*Hobhouse Report extracts, 1947*

1. The report of the Committee on Footpaths and Access to the Countryside (the “Hobhouse Committee”) was published in 1947. It recommended that all public rights of way should be surveyed and recorded on maps. The recommendation was put into effect through the enactment of the National Parks and Access to the Countryside Act 1949.
2. The extracts provided set out that the committee is concerned with all public rights of way except those for vehicles i.e. public roads or carriageways. It recommended that highway authorities should be required by statute to repair and maintain all rights of way.

*Cottesmore Hunt Diary, 1949*

1. This records that the hunt met at Langham in November and that two coverts were drawn, including Ranksborough, which was apparently first.

*Ordnance Survey 2.5 inch map, Sheet SK81, Wymondham (Leic.), first published 1950*

1. The route is shown to follow the same course as on the 1921 and 1909 maps. It is depicted by a single dashed line and annotated “F.P.”. Bridleway E153 is shown in the same way. Paths on the map are generally annotated “F.P.”.

*Survey by Knossington and Cold Overton parish council, 1951*

1. Knossington and Cold Overton parish is in Leicestershire. Bridle Road No 1 is recorded in the survey sheet and named Northfield Farm Cold Overton to Ranksborough. It is described as passing from Whissendine Road near Northfield Farm and continuing through Ranksborough to Langham Road. Grounds for believing the path to be public were “occasional usage and known to local residents”. The path’s condition was “In order. Gated”. Its means of survey was recorded as “Used and observed by several members of Council”. “Surveyed by” is crossed through at the foot of the page, and “Recollected and observed by” is written in its place. Sir Henry Tate and Mr J E Barnett are the names recorded. It is submitted that the term “observed” may refer to use of the Order route to gain a vantage point to watch the hunting activity.
2. The map shows the course of the Order route’s continuation in Leicestershire marked “B.R. 1”. A small section of the Order route east of point E is also marked.

*Langham Parish Council Minutes, 1951*

1. The minutes record that correspondence was received from the County Planning Officer requesting the Council to assist him in preparing records of footpaths and bridleways in the parish in connection with the Rights of Way and Access to the Countryside Act. They show that “the letter also stated that the County Council in preparing the Development Plan under the Town & Country Planning Act 1947 would consider the possibility of diverting or closing existing footpaths or making new paths where necessary, and asked for the Council’s observations. After discussion it was resolved…that the County Planning Officer be informed that all the known footpaths are marked on the Ordnance Survey for the parish and that the closure of the following footpaths, which have fallen into disuse, is recommended:….From Ranksborough Drive through Ranksborough Gorse to Cold Overton Boundary”. It is submitted in support that a local resident recalled having ridden the path on horseback prior to 1951 by using Ranksborough Hall Drive off Melton Road, although the route had been shown on OS maps to start from a point further south off the Melton Road.
2. It was recorded in later minutes that the “survey of footpaths in the parish which had been made by the Parish Council together with their report thereon was placed before the meeting”, and was approved except for a suggestion that a footpath elsewhere should be “classified as redundant”. It is submitted that the minutes show that the parish council considered no status other than footpath in respect of any of the paths in the parish, in compiling the parish survey.
3. Footpath D85 was later recorded in the definitive map and statement (DM&S) despite the survey’s recommendation of closure due to disuse.

*Letter to Rutland County Council from John Garbett regarding obstructions on path D85, 1962*

1. The letter sets out obstructions encountered on “Langham Parish No 5”, including barbed wire and ploughed land. It states in respect of Ranksborough Gorse that the whole area has been “turned over to arable…line of path ploughed out without trace, though remains of gateways can be seen”. An accompanying map marks Footpath D85, including stiles, a fence and field gates on it.

*Letter from Knossington & Cold Overton Parish Council to Mr Garbett, 1984*

1. The letter concerns public footpaths in Cold Overton. It provides support for Mr Garbett’s actions in writing to the county council on the subject. It states “Further to your letter we note footpath D78 this is a Bridleway”. Bridleway D78 is in Cold Overton parish.

*Email from Leicestershire County Council Rights of Way Department*

1. Views on the accuracy of King’s Map are provided in this submission. The writer considers the map to be one of the most reliable old maps as a historical resource. They consider this to be mainly because the key and legends depict highways, because the survey was financed from a wide spectrum of society including landowners who would have had an interest in its accuracy, and because a high number of the “bridle roads” shown on the map match modern-day public bridleways.

*Article from the Redmile Archive about William King*

1. The article discusses King’s Map. Its authorship and sources are unconfirmed. It submits that the document was more accurate than an earlier map.

*Ordnance Survey and Hunt Maps (Extract from the Charles Close Society Journal)*

1. This article states that King’s Map was intended as a fox hunting map, and that William King was the agent of the Duke of Rutland.

*“Lonsdale: the authorised life of Hugh Lowther, Fifth Earl of Lonsdale” (Captain Lionel Dawson, 1946)*

1. Lord Lonsdale was once Master of the Quorn Hunt. The extract records that he said that “second horsemen should never pull down, or jump, any fence, and be most particular about shutting gates, and keeping as much as possible to tracks and bridle paths”.

*Letter from Michael Clayton, 2017*

1. The author of the above-mentioned book states that, as an author of many books on foxhunting, including a history of hunting in the area of various hunts including the Cottesmore country which covered the Langham area, he can affirm that it was the practice of landowners who created new fox coverts to establish permanent bridleway access to these coverts.

*Letter from Alan Crosby, 2018*

1. As a historian who had published articles on local history in Rutland, Mr Crosby provided information concerning enclosure landscapes and foxhunting. The letter provides general information on fox coverts and states that land including Ranksborough Cover was leased in 1824.

*“Melton: The Capital of Foxhunting” information panel at Melton Mowbray Museum*

1. This sets out that Melton Mowbray was transformed by the surrounding hunts during the late eighteenth century, attracting many visitors to participate, who contributed to the town’s economy. It states that Melton became the “capital of foxhunting” and continued to be so until the middle of the twentieth century.

*Langham Village History Group article on Dick Baker*

1. The article provides a short biography of Mr Baker, who was village correspondent for the Grantham Journal newspaper throughout the First World War. It is submitted in support that he was also the Mr Baker who contributed to the discussion at the May 1913 Rural District Council meeting, and that he lived in Langham and came from a family with links to the village, so that his report of the meeting would have been accurate.

*“John Fielden Brocklehurst – Major-General Lord Ranksborough by Jean Bray*

1. Lord Ranksborough built Ranksborough Hall in 1893. The article provides his biography.

*Use of OS Maps before Definitive Maps (British Horse Society Paper by Catriona Cook MBE, 2014)*

1. The paper submits that OS maps were used by the public for navigational purposes before rights of way were shown on definitive maps and statements. It includes several extracts from publications about maps and countryside access. It concludes that OS maps were used by the public in large numbers for navigational purposes from the first editions in the mid 1800s, and that for over 100 years the through roads and tracks shown on them were regarded as public.

*Paper: “Parish role in preparing the definitive map” by the Open Spaces Society*

1. This paper argues that mistakes were made in the preparation of the first definitive maps of rights of way. It submits, amongst other matters, that parish councils generally did not have or seek access to the common historical sources available to researchers today; that a paucity of use during the years prior to the 1949 Act cannot diminish good evidence of reputation from an earlier era; that landowning interests were frequently represented on parish councils; that horseriding was less common at the time of the parish surveys; and that various improper reasons may have existed for the omission of routes from the definitive map.

*History of the Cottesmore Hunt (online article)*

1. This lists Masters of the Cottesmore Hunt between the years 1946-58. These included Lt. Col. Sir Henry Tate, one of the people who produced the Knossington parish survey.

*Statutory Declaration of R Harris, 2023*

1. The statutory declaration sets out the applicant’s experience as a rural district council representative for a village elsewhere in Rutland in the late 1960s or early 1970s. It states that on visiting a local landowner and farmer she was asked where paths were overgrown and if they were used. On answering in the negative in some cases, she had the impression that the paths in question were struck off a map by pen. The paths were known in the village as footpaths but did not appear on what she later learned was the definitive map of public rights of way.

***Conclusions on documentary evidence***

1. The earliest submitted evidence from 1624 to 1841 depicts section A-C of the Order route only. Evidence from 1842 and 1884 shows A-D to be part of a route which continues westward, although the 1884 evidence shows a different alignment west of point D. Ranksborough Hall had been constructed for over a decade by 1904, and whilst the western section of the Order route is shown from that date, its eastern section is not. The evidence consequently falls into three distinct periods, each of which suggests the physical existence of a partial or differing route.

*1624-1841 evidence*

1. Turning first to the earliest evidence, the 1624 map has no key and it is not possible to ascertain what the different colouring used to depict ways was intended to convey. The map is a digital copy produced to replicate the original and hence may be subject to issues of interpretation. Whilst care appears to have been taken in the document’s production, as the original is not before me it is not possible to ascertain whether such errors may have arisen. Moreover, the status of the map’s maker, and whether it was made to show highways or not, are unclear. The 1624 map consequently attracts only moderate weight for these reasons.
2. Section A-C of the Order route led to a mill at this time, which appears to have been the only flour mill in Langham at that point. Whilst the route provided access to the mill, which may have been visited by many people, access to a particular destination and for a particular purpose in this way may indicate that use was not made as the public. Section A-C of the Order route is depicted in a similar way to a recorded public footpath (the track which leaves Manor Lane in a northerly direction) in the maps of 1624 and 1760, although all three ways coloured brown in the 1624 map appear to form cul-de-sac routes giving access to land at that time. The recorded Bridleway E153 is shown on the early documents to pass the mill to the south of Cold Overton Road but also formed part of a through route to access other routes in the area, so that it is not directly comparable to section A-C.
3. The mill is absent from the 1760 survey and map. Although the 1760 map has no key, a copy of the original document is submitted and the shaded routes represent the modern highway network in the vicinity, including Bridleway E153 to the south of Cold Overton Road, to a reasonable degree of accuracy. Section A-C of the Order route is shown in this way. The weight attached to the 1760 document is tempered because the status of its maker and the purpose for which it was made, including whether to show highways or not, are unclear.
4. King’s Map of 1806 depicts a bridle road over section A-C of the Order route. The types of way shown on the map, according to the key, are turnpike roads, turnpikes, public carriage roads or bridle roads. Views are expressed that King’s Map may be considered to be accurate, to depict a large number of recorded public bridleways and to have been produced in partial consensus with landowners, who would have had an interest in its accuracy.
5. King’s Map shows a network of ways which is similar to the modern network, with a bridle road which is not open to the highway depicted over section A-C of the Order route. Nevertheless, Bridleway E153 is shown to be open to the highway and hence in a different way from the Order route. The public footpath north of Manor Lane is shown in the same way, although only a stub of that route is depicted. No destination of interest to the public to explain a cul-de-sac public bridleway over section A-C of the Order route is shown.
6. There is nothing before me that leads me to a different view of the accuracy of King’s Map than those referred to above. Nevertheless, there are notable differences between its depiction of the Order route and that of two other longstanding public rights of way in the vicinity. No reason is discernible from the map for the existence of a cul-de-sac bridleway over section A-C. These considerations introduce doubt regarding whether the map maker viewed the Order route as available for public access. Furthermore, King’s Map does not show Bridleway D85 in Leicestershire, so that it is unlikely that section A-C of the Order route was part of a longer route which physically existed at that time. As a result of these considerations, the King’s Map evidence provides only limited support in favour of the existence of potential public rights over section A-C of the Order route.
7. Approximately section A-C of the route is shown on the Tithe map by a sienna colour, in the same way as other routes in the vicinity. Analysis of the document does not suggest that the cartographer treated public and private roads differently. Both public and private roads were titheable, so that the showing of a road on such a map is, in itself, no indication of whether it was considered to be available for public or private use. The Tithe map evidence is consequently consistent with the existence of either a public or private road over section A-C. This accords with the route’s depiction on the David and Charles OS map reprint.
8. A gate is shown at point A in some of the earliest evidence. Two longstanding public rights of way in the area (the footpath north of Manor Lane and Bridleway E153) are generally shown to be open to the highway in the same evidence. The presence of a gate across the Order route could indicate that it was not considered to be a public road at that point, but is not conclusive, as a public road may be subject to a right to gate it to prevent stock from straying.

*1842-1885 evidence*

1. OS maps of 1842 and 1884 are the earliest documents to indicate a longer route in the vicinity of the Order route, with the 1884 maps both showing a different alignment west of point D. Whilst the route is shown as a bridle road in these maps, the documents additionally show that at this time it provided the only access between Langham and the fox covert. The applicant submits that this was visited by the hunt after meeting in Langham. This would be logical due to the covert’s purpose as a place for foxes to live.
2. It is submitted in support that the route between point A and the fox covert is likely to have been established from 1820, when the 1857 letter indicates that the covert was established. This is supported by records suggesting that Ranksborough Cover was leased in 1824.
3. Whilst I acknowledge the position expressed in the author’s letter of 2017, evidence to support the submission that public bridleway access was generally established to serve fox coverts is not before me. The 1857 letter relates to the creation of a fox covert elsewhere but does not refer to the adjacent public bridleway. Whilst the presence of a physical track to a covert is likely to have been beneficial, its public status may be incidental to the choice of the covert’s location. As a result, the 1857 letter attracts only minimal weight in my determination.
4. The quoted statement of the Master of the Quorn Hunt expresses a view that tracks and bridle paths should be kept to by the hunt as much as possible. Nevertheless, it is not possible to ascertain whether routes which were generally considered to be public were used, or whether private agreements with landowners may have existed for access to land by the hunt.
5. The submitted newspaper extract of 1850 does not provide evidence of the route taken by riders or followers of the hunt, and hence whether this included the claimed route.
6. Whilst the document on agriculture in nineteenth century Rutland refers to the maintenance of roads in Langham during that period, I cannot assume that this must have included the Order route.
7. Apparently conflicting statements issued by the Ordnance Survey in the late nineteenth century on the annotation of paths present a somewhat ambiguous picture of the approach taken in this regard. Furthermore, whilst the submissions concerning Ordnance Survey evidence are of interest, successive judgments that such evidence shows the physical existence of routes but not their status form a binding precedent. The submitted articles and opinions consequently do not overcome the established judgments on the matter.

*Summary of pre-twentieth century evidence*

1. Whilst the pre-1842 evidence suggests the physical existence of a cul-de-sac route over section A-C, it is consistent with a reputation as either public or private. The partial depiction of the route as gated at the highway, in contrast with two other longstanding public rights of way in the area, weighs more in favour of a reputed private route, although it does not form conclusive contrary evidence. Furthermore, whilst the later nineteenth century OS evidence suggests the existence of a longer way which was physically available for equestrian use, it does not confirm whether the route was considered to be public or private, and any other evidence from this period which could shed light on the matter is not before me.
2. Hunting was evidently popular in the area during the nineteenth century, and the route’s depiction in mapping from that time may be consistent with its equestrian use as part of this activity. It is likely that the hunt inevitably sometimes crossed land or followed tracks across which no public right of way was considered to exist, due to the unpredictable nature of its route. It is therefore likely that an element of permission to access land was obtained from local landowners prior to the hunt taking place. Use as a result of such a permission would consequently not be use as of right and hence would not have been capable of giving rise to a public right of way.
3. Furthermore, the documents before me do not indicate that express dedication of a public right of way has occurred over or near the Order route. As a result of the above considerations, the pre-twentieth century documents do not form sufficient evidence that an unrecorded public bridleway exists over part or all of the Order route (or on another alignment in the vicinity) to point to the modification or confirmation of the Order.

*Twentieth century evidence*

1. Ranksborough Hall had been constructed by 1913 so that, if the road referred to at the district council meeting of 1913 had been the Order route, a more likely description would have been the road to the hall rather than to farmhouses and cottages. The “blind road” referred to at Langham in the report has not been demonstrated to be the Order route. Thus, this evidence attracts only minimal weight in support of the Order.
2. A footpath from Melton Road meets the Order route at approximately point B in the nineteenth century mapping. Its easternmost section remains present following the hall’s construction, but its route then alters to one further north which was later recorded in the DM&S as Footpath D85. It is not clear whether the route of Footpath D85 at this point arose from a diversion of the Melton Road footpath or of section A-C of the Order route. It is conceivable that the hall was constructed over the Order route without public complaint because it did not have the reputation of being a highway at that time.
3. Both recorded public footpaths and bridleways are shown on the Cottesmore hunting map of 1939 in the same way. The map shows Footpath D85 as a bridle or footpath and, in view of the other early twentieth century evidence showing a footpath to physically exist and its recording in the DM&S as such a few years later, it is most likely that it was considered by the map’s makers to be a public footpath. Presumably knowledge of such routes may have been useful for followers of the hunt on foot.
4. The hunt diary extract of 1949 confirms that hunting was still occurring in the area at that point. Footpath D85 may have been used by the hunt for access between Langham and the covert. The 1951 Langham parish survey may consequently have been completed in the context of recent use of the path by the hunt. The Langham parish council considered the route to be a footpath despite this. In the same year, the Knossington and Cold Overton parish council considered that it was a bridle road. The two differing but contemporaneous views against a backdrop of potential use of the path by the hunt may suggest an ambiguity over whether such use was public.
5. The description of the route of Bridle Road 1 in the Knossington and Cold Overton parish survey as “through Ranksborough to Langham Road” cannot have referred to sections A-D of the Order route, as these had disappeared from the mapping evidence as a through route by 1904 due to the recent construction of the hall. It is more likely to have referred to Footpath D85, or another route.
6. The evidence for the recording of route D85 as a bridleway in Leicestershire is not before me, and the reasons for this are not in dispute here. Nevertheless, I cannot draw any firm inference concerning the effect of the status of path D85 in Leicestershire without knowing the diligence of the procedure leading to its recording as such.
7. Where a short section of way of an uncertain status exists, it can sometimes be presumed that its status is that of the two highways linked by it. Section A-B/C of the route was shown until 1842 as a cul-de-sac route, so that it did not link two highways. The 1884 OS map is the first submitted document to show the physical existence of Leicestershire Bridleway D85, so that the Order route has not been demonstrated to link that route and Cold Overton Road until that date.
8. As set out above, the evidence shows the existence of three different routes, the earliest of which was the section A-B/C. If that section had been found to be a highway, its status and that of the Leicestershire bridleway may have shed light on the status which the remainder of the Order route was considered to hold between 1884 and the severing of section A-B by the hall’s construction in 1893. However, I have not identified that section A-B/C was an existing highway when the linking Leicestershire bridleway was first shown in 1884. The new section B/C-E additionally connected to a route identified as a footpath on the 1842 and 1884 mapping, and from the hall’s construction. Thus, a point when the Order route connected two highways of an identified bridleway (or “higher”) status has not been shown to have arisen.
9. The Langham Parish Council minutes of 1951 concerning its survey of rights of way record correspondence received from the County Planning Officer requesting the parish council’s assistance in preparing “records of footpaths and bridleways in the parish in connection with Rights of Way and Access to the Countryside Act”. The letter also stated that “the County Council in preparing the Development Plan under the Town & Country Planning Act 1947 would consider the possibility of diverting or closing existing footpaths or making new paths where necessary, and asked for the Council’s observations”.
10. The parish council minutes later record that “all the known footpaths are marked on the Ordnance Survey for the parish and that the closure of the following footpaths, which have fallen into disuse, is recommended”. The paths recommended for closure include Footpath D85.
11. Whether the reference in the County Planning Officer’s letter to two separate legislative provisions in respect of public rights of way in the parish erroneously led parish councillors to believe that paths could be altered as part of the survey process or not, Footpath D85 was ultimately recorded in the DM&S, despite the recommendation of “closure”. Even if parish councillors believed that the parish survey could include path diversions or extinguishments, this would not demonstrate that amendments to a path’s status were also considered to be within the survey’s scope.
12. In terms of whether the status of paths was correctly considered by the parish council, potential evidence to the contrary includes the reference only to footpaths in the parish council’s response. All paths shown on the base OS mapping which was current at the time were additionally marked FP.
13. Nevertheless, the County Planning Officer’s letter of 1951 to Langham Parish Council referred to “footpaths and bridleways”, which is also the phrase recorded in the parish council’s initial minutes on the matter. Moreover, path number E153 ultimately came to be recorded in the DM&S as a public bridleway. These considerations suggest that at least one other status than footpath was considered in the parish survey process.
14. The Ministry of Town and Country Planning’s Circular No.81 of 1950 covering the surveys and maps of public rights of way (produced by the Commons, Open Spaces and Footpaths Preservation Society in association with the Ramblers’ Association) was distributed down to parish council/parish meeting level and the legal ‘presumption of regularity’ applies. It has not been demonstrated that Langham Parish Council did not receive this detailed guidance, or that it did not comply with it. Even if the parish council did not have access to the documentary sources considered above, it cannot be assumed that such access would have altered their view of the route’s status, particularly in light of my conclusions on this evidence. As a result of the above considerations, the limited available information about the Langham parish survey does not indicate that errors were made in the process of recording the status of Footpath D85.
15. Furthermore, the 1962 letter and map indicate the presence of two stiles on Footpath D85. Whilst this was a decade after the parish survey, these would not be compatible with the path’s use as a bridleway if they were present in 1951.
16. A number of matters cannot be assumed from the applicant’s statutory declaration, including whether the paths referred to were considered to be public rights of way, what if any part was played by the landowner in the drawing up of the DM&S, and whether the approach of this parish elsewhere was replicated in Langham. The document consequently has only minimal relevance to the issues under consideration.
17. In summary, whilst the Knossington and Cold Overton parish survey forms some reputational evidence to the contrary, there is also clear evidence in support of Footpath D85 having been considered to be a footpath in the early twentieth century.

*Summary*

1. Overall, the evidence suggests the physical existence of an early cul-de-sac route over section A-C, which was considered to be either public or private. During the nineteenth century this may have become part of a longer track with a different alignment from the Order route over section D-E, which provided access to the Ranksborough Hill covert for the hunt but over which the evidence fails to indicate the existence of an unrecorded public bridleway, on the balance of probabilities. By the end of the nineteenth century the hall had been constructed over the early route, section A-C had become access to a farm, and a footpath which met section D-E was established over a new route to the north. The footpath was subsequently recorded in the DM&S. The available evidence does not indicate that its status was recorded in error.
2. To conclude, the evidence does not show, on the balance of probabilities, that a public bridleway subsists over the Order route, or that the highway already shown in the definitive map and statement should be shown as a highway of a different description.

Other Matters

1. I acknowledge concerns raised regarding the effect of the Order on matters such as the potential to extend equestrian and cyclist use of Bridleway D85, biodiversity, safety and suggested alternative routes. Nevertheless, the only issue here is whether a public right of way exists: suitability and amenity must be disregarded in deciding whether to confirm an order. These concerns consequently lie outside the criteria set out within the relevant legislation. As a result, I cannot give them weight in reaching my decision.

Conclusion

1. Having regard to these and all other matters raised in the written representations I conclude that the Order should not be confirmed.

**Formal Decision**

1. I do not confirm the Order.

*C Beeby*

INSPECTOR

COPY OF ORDER MAP - NOT TO SCALE

