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| **Order Decision** |
| Inquiry held on 12 August 2025 |
| **by Claire Tregembo BA(Hons) MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 03 September 2025** |

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| **Order Ref: ROW/3344727** |
| * This Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Norfolk County Council (King’s Lynn, Spring Wood) Modification Order 2022. |
| * The Order is dated 22 June 2022 and proposes to modify the Definitive Map and Statement for the area by adding four footpaths as shown in the Order plan and described in the Order Schedule. |
| * There was one objection outstanding at the commencement of the inquiry. |
| **Summary of Decision: The Order is confirmed.** |
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Procedural Matters

1. Norfolk County Council (the Council) remained neutral at the inquiry in accordance with their policy. The case in support of the Order was made by the applicant. The objector appeared at the inquiry virtually as he was unable to attend in person.
2. I was unable to visit the area prior to the start of the inquiry but made an unaccompanied site visit on 12 August 2025 after it closed where I walked the Order routes and surrounding area. No representatives for the objector were available so an accompanied site visit was not possible.
3. The objection concerned the two footpaths through Spring Wood between Cycle Path 2Y28 and Langland. There were no objections to footpaths A-B and C-D.

The Main Issues

1. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 in consequence of the occurrence of an event specified in section 53(3)(b). This requires me to consider if the routes have been enjoyed by the public for a period that raises a presumption that they have been dedicated as public footpaths.
2. The evidence submitted in support of the Order relies on the presumption of dedication arising from tests laid out in section 31 of the Highways Act 1980 (the 1980 Act). This requires me to consider if the public have used the routes as of right and without interruption, for a period of twenty years immediately prior to their status being brought into question. I must establish the date when the public’s right to use the Order routes was brought into question and determine if use by the public occurred for a twenty year period prior to this that is sufficient to raise a presumption of dedication. If this is the case, I must then consider if there is sufficient evidence that there was no intention on the part of the landowner to dedicate public footpaths during this period.
3. Section 32 of the 1980 Act also requires me to take into consideration any map, plan or history of the locality, or other relevant document provided, giving it such weight as is appropriate, before determining whether or not a way has been dedicated as a highway.

Reasons

1. Route A-B runs between Baldwin Road and Suffolk Road and there is a footpath off this path to cycle path 2Y28 shown as C-D on the Order map. There are two footpaths running through Spring Wood from cycle path 2Y28 to Langland shown as E-F-G-H-I and F-J-K-H-L-M which meet at points H. Some people have only used parts of these routes to travel between the cycle path and Langland so I will break down the use into shorter sections. I have attached a copy of the Order plan to the end of my decision for ease of reference.

*Bringing into question*

1. To bring into question the right of the public to use the Order routes some actions or events must have occurred that brought home to at least some of those using them that their right to do so was being challenged. These must have been sufficiently overt to bring that challenge to the attention of the public using the routes.
2. The owner of Spring Wood deposited a map and statement with the Council on 7 June 2016 under section 31(6) of the 1980 Act. This deposit affects routes E-I and F-M which were not indicated as public paths. Defra’s view is that for a deposit to be effective as evidence against presumed dedication, it must be followed up by a statutory declaration at a later date within 20 years. Although the deposit was made, it was not followed up with a statutory declaration.
3. When the deposit was made, the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 required the Council to post notices on site to notify the public of duly made applications. The Council confirmed a notice was posted on site and provided a copy of it and the posting instruction dated 23 June 2016. Several path users stated they were aware of the deposit and understood this meant that the landowner was challenging use in 2016.
4. Therefore, although the deposit was not effective, it came to the attention of the public and they considered their use of the routes through Spring Wood was being challenged. I therefore consider the deposit to be the date of challenge for the Order routes through Spring Wood (routes E-I and F-M) with the relevant period of use being 7 June 1996 to 7 June 2016.
5. The deposit did not affect Order routes A -B and C-D and there is no evidence of any challenges to these routes. In the absence of evidence of overt acts bringing the right of the public to use the routes into question, section 31(7a) and (7b) of the 1980 Act provides that an application for a Definitive Map Modification Order made to the surveying authority, can serve as a challenge to use for the purposes of section 31(2) of the 1980 Act.
6. An application was received by the Council on 24 May 2018. I therefore consider this to be the date of challenge and the relevant twenty year period of use for routes A-B and C-D to be 24 May 1998 to 24 May 2018.

*Analysis of use*

1. To satisfy the requirements of section 31, use must be by those who can be regarded as the public. For use to be as of right it must be without force, secrecy, or permission. Use should be without interruption, and to be effective, any interruption must be by the landowner, or someone acting on their behalf. The interruption should be with the intention of preventing use of the way by the public and not for other purposes such as car parking, maintenance or building works. I must also be satisfied that there was sufficient use by the public to raise a presumption of dedication.
2. User evidence forms (UEF) were submitted with the application although only a handful of path users provided a map with their form in 2016. In 2018 the Council sent maps to those who completed UEF so they could indicate the routes they used. Additional witness statements have been submitted by some of those filling in UEF and also by people who did not complete them.
3. Some of the routes shown on the UEF maps do not exactly align with the Order routes through Spring Wood. There are no paths shown on the Ordnance Survey (OS) base map and there are no features within Spring Wood. Those who appeared at the inquiry confirmed they had no cartographical skills which made it difficult for them to accurately mark the Order route. However, the routes shown do largely correspond with the Order routes and I consider any variations are due to the lack of features on the OS base map and the lack of cartographical knowledge of the path users. When discussing the use of the Order routes below, I have only counted those who have either clearly stated the line they used by referring to the relevant points on the Order map or have shown that section of the Order route or a close approximation to it on the plan they provided in either 2016 or 2018.
4. Fifty people provided evidence indicating use of the Order routes on foot. The frequency of use varied, but twenty one people indicated they used the Order routes daily, fifteen at least once a week, and six at least once a month. Use was predominantly for recreational purposes such as family walks, dog walking, or enjoying nature. The Order routes were also used to reach schools, shops, the hospital, the library, bus stops, church, and to visit family and friends.
5. The UEF maps and witness statements indicated that 24 people used Order routes A-B and C-D. The routes described in the UEF suggest seven people who did not show these sections on their map also used routes A-B and C-D. Most of the witnesses who appeared at the inquiry also used these Order routes.
6. The UEF maps and witness statements indicate that 41 people used section E to F. At point F, walkers can continue on the northern line F-G-H or the southern line F-J-K-H with some people using both routes. Thirty six people used section F-G-H and 19 people used section F-J-K-H. At point H, there were two paths, and the route used depended on the origin or destination of the path users. Twenty six people used the north fork along section H-I and 32 people used the south fork along section H-L-M.
7. The objector considered a maximum of six people used any section of the Order routes within Spring Wood. However, the witness statements and oral evidence given at the inquiry showed that more than six people were using the Order routes and the user evidence as a whole shows a significant amount of use of all sections of the paths within Spring Wood.
8. None of the path users had permission to use the Order routes, and nobody recalled any notices to suggest use was with permission. They also did not recall any notices challenging use of the Order routes and none of the path users were ever challenged. None of the path users recalled any obstructions, gates, or stiles on the Order route although some did refer to some obstructions on the cycle path near the southwest corner of Spring Wood. The owner of Spring Wood also stated he did not erect notices or obstructions and did not challenge users.
9. Some path users stated Order routes A-B and C-D were closed for a few days for resurfacing works. The sections through Spring Wood were also closed for public safety reasons when tree works were carried out. However, maintenance works to repair paths or closures to safely clear trees would not be interruptions for the purposes of preventing use of the way by the public.
10. It was suggested that path users were not using defined routes within Spring Wood but instead were wondering around and using them as a public open space. Some people used Spring Wood for bird watching, observing nature, and litter picking which may have meant they left the line of the Order routes. There were some additional worn lines within Spring Wood when I made my site visit, but most only went a short distance before ending. By comparison, the Order routes were well-worn lines which were clearly used. Overall, I consider the user evidence showed use of Spring Wood along the defined routes shown on the Order map and did not amount to wandering around. It is also possible for public rights of way to cross public open space.
11. I consider there is sufficient evidence of use without interruption, permission, force, or secrecy during the relevant twenty year period to demonstrate a presumption of dedication over the Order routes.

*Lack of intention to dedicate*

1. To demonstrate a lack of intention to dedicate, a landowner must take action to make the public aware that they have no intention of dedicating a public right of way. There are various ways of demonstrating this, but the most common ways are erecting notices denying public rights or granting permission, physical obstructions, or verbal challenges.
2. No evidence has been put forward of any actions to show a lack of intention to dedicate public rights over Order routes A-B and C-D.
3. The owner of Spring Wood stated they had not erected any notices or obstructions to indicate to the public that they had no intention of dedicating public rights, despite being aware that the land was being used by the public. The only action they took was to deposit a map and statement with the Council on 7 June 2016 under section 31(6) of the 1980 Act. However, as explained in paragraph 9, this deposit was not followed up with a statutory declaration so was not effective. In any event, deposits and statutory declarations are not retrospective so they did not demonstrate a lack of intention to dedicate during the relevant twenty year period.

*Conclusions on section 31*

1. I consider there is sufficient evidence of use of Order routes A-B and C-D as of right and without permission, interruption, or challenge between 24 May 1998 and 24 May 2018. There is no evidence of any actions by the landowners to demonstrate they had no intention of dedicating public footpaths over these routes during the relevant twenty year period.
2. I also consider there is sufficient evidence of use of Order routes E-F-G-H-I and F-J-K-H-L-M as of right and without permission, interruption, or challenge between 7 June 1996 to 7 June 2016. I consider the public kept largely to the defined, linear routes shown on the Order map. I do not consider there is sufficient evidence of challenges, permission, or other actions taken by the landowner to demonstrate they had no intention of dedicating public footpaths over these routes during the relevant twenty year period.
3. I am satisfied the evidence before me is sufficient to show, on the balance of probabilities, that public footpaths subsist over the Order routes.

Conclusions

1. Having regard to these and all other matters raised at the inquiry and in the written representations I conclude that the Order should be confirmed.

Formal Decision

1. I confirm the Order.

Claire Tregembo

INSPECTOR

**APPEARANCES**

**For the Council in a Neutral Capacity:**

Lawrence Malyon Legal Orders Team Manager (Public Rights of Way & Common Land and Village Greens)

**In Support of the Order:**

Robert Colwell Applicant

**Who Called**

Anita Hodgson Path User

Peter Frusher Path User

Peter Goward Path User

Ian Gilbert Path User

John Surtees Path User

Graham Walker Path User

Julia Colwell Path User

Alison Wood Path User

Rob Ashwell Path User

Angela Lister Path User

Jo Rust Path User

Dana Wilkins Path User

Richard Driscoll Path User

Lorraine Beamis Path User

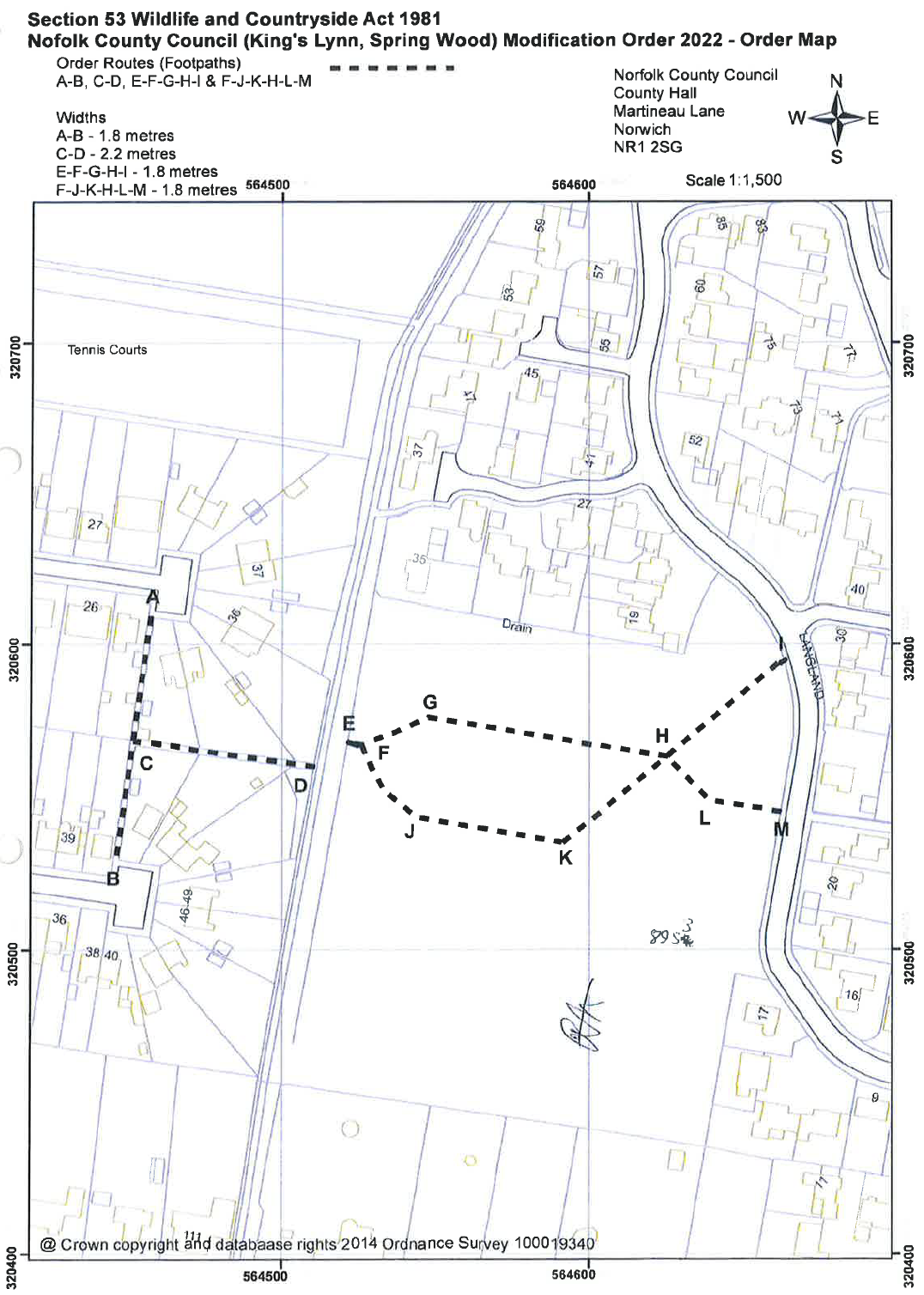
**In Objection to the Order:**

John Tomlinson Landowner

**DOCUMENTS PRODUCED AT THE INQUIRY**

1. Form CA17 Notice of Landowner Deposit under Section 31(6) of the Highways Act 1980 Dated 23 June 2016
2. Notice Posting Instructions Dated 23 June 2016
3. Location Plan for the posting of the Form CA17 Notice

**ORDER MAP**

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