

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

Public Footpath 74, Epworth and Haxey

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To update members following the public inquiry held by the Secretary of State into whether the order to divert Public Footpath 74 at Starcross should be confirmed.

2. BACKGROUND INFORMATION

- 2.1 On 10 May 2006 North Lincolnshire Council made an order to divert 110 metres of Public Footpath 74 at Starcross, the end property on Epworth Little Turbary. The order sought to divert the footpath from one side of Old Turbary Drain to the other. It was thought expedient to make the order in the interests of the owners of the land crossed by the path on the grounds that this would improve their privacy and security. They also own the land onto which it would be diverted.
- 2.2 Twenty seven objections were duly lodged after the making of the order was advertised on 26 May 2006. The order and the objections were referred to the Secretary of State for Environment, Food and Rural Affairs, who held an inquiry at The Pavilion, Belton, over three days on 5-6 December 2007 and 4 February 2008.
- 2.2 The Secretary of State issued an interim decision letter on 10 July 2008. A copy of the interim decision has been placed in the group offices.
- 2.3 A copy of the order and map as proposed to be modified by the Secretary of State is appended to this report. The Secretary of State advertised the modifications in the Scunthorpe Telegraph on 3 September 2008.

3. OPTIONS FOR CONSIDERATION

- 3.1 To note the interim decision.

4. ANALYSIS OF OPTIONS

- 4.1 The summary of the interim decision was that "the order is proposed for confirmation subject to modifications set out below in the formal decision". The latter proposed (1) the removal of paragraph three on

page one, (2) substituting “at least two metres wide” with “for the whole of its width” in the description of the existing path on line two of page one and (3) deleting the heading and all of the text in connection with Part Three of the order’s schedule on page two.

4.2 Because the Secretary of State thinks that the modifications will affect land that was unaffected by the order in its original form, the modifications have to be advertised. This would allow anyone who disputed the modifications or was unhappy about the order as modified to object. Moreover, objectors would not be restricted to observations about the modifications but could comment on any aspect of the order. Although objections would be dealt with in the usual way – written representations, hearing or inquiry – objections to the modified aspects of the orders would be dealt separately from the unmodified ones. So if objections were received on both counts, there would be separate inquiries for each set of aspects, unless interested parties could agree that a joint one would be more appropriate.

4.3 Overall, members’ decision to make the order has thus far been vindicated. The inspector dismissed each of the objectors’ arguments in turn and agreed that the order had been expedient to make in the interests of the owners of Starcross.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

5.1.1 From within the existing complement of the Environment Team.

5.2 Staffing

5.2.1 From within the existing complement of the Environment Team. In the event of a hearing or inquiry being held, the assistance of Legal Services might be called upon.

5.3 Property

5.3.1 None.

5.4 IT

5.4.1 None.

6 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17-CRIME AND DISORDER, RISK AND OTHER)

6.1 Statutory

6.1.1 Highways Act 1980, Schedule 6, paragraph 2(3): “Notwithstanding anything in the forgoing provisions of this paragraph, the Secretary of State shall not confirm or make an order so as to affect land not affected by the order as submitted

to him or the draft order prepared by him, as the case may be, except after ..." [giving notice and holding an inquiry].

6.2 Environmental

6.2.1 None.

6.3 Diversity

6.3.1 None.

6.4 Section 17 Crime and Disorder

6.4.1 None.

6.5 Risk

6.5.1 None.

6.6 Other

6.6.1 None.

7. **OUTCOMES OF CONSULTATION**

7.1 Not applicable.

8. **RECOMMENDATIONS**

8.1 It is recommended that members note the interim decision.

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SCUNTHORPE
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DN15 6XQ

Author: Colin Wilkinson
Date: 11 August 2008

Background Papers used in the preparation of this report: Interim decision letter of Inspector Mark Yates on behalf of the Secretary of State for Environment, Food and Rural Affairs (FPS/Y2003/4/5).

MODS

**Highways Act 1980
Section 119**

**Public Path (Public Footpath 74,
Epworth) Order 2006(1)**



PUBLIC PATH DIVERSION ORDER

HIGHWAYS ACT 1980

NORTH LINCOLNSHIRE COUNCIL

"PUBLIC FOOTPATH 74, EPWORTH AND HAXEY 2006(1)"

This order is made by North Lincolnshire Council ("the authority") under section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner/occupier of the land crossed by the footpath described in paragraph 1 of this order it is expedient that the line of the path should be diverted.

Maurice Storer ("the applicant") of Starcross The Turbary Epworth has agreed to defray any compensation which becomes payable in consequence of the coming into force of this order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

BY THIS ORDER:

1. The public right of way over the land situate at Starcross The Turbary Epworth and shown by a bold continuous line on the map contained in this order and described in Part 1 of the Schedule to this order shall be stopped up after 49 days from the date of confirmation of this order.
2. There shall at the end of 42 days from the date of confirmation of this order be a public footpath over the land situate at Starcross The Turbary Epworth described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this order.
- ~~3. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.~~

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH

Point A to Point D, as indicated on the map by a bold continuous line: a length of public footpath 110 metres long and ~~at least two metres wide~~ ^{for the whole of its width} leading in a southerly direction along the western side of Old Turbary Drain from a point on a track just north of the entrance to a property called Starcross at grid reference SE7642303359 and crossing from the Parish of Epworth into the Parish of Haxey at grid reference SE7642003258 via a small footbridge over an east-west drain to a point just south of said drain at grid reference SE7641903250.

PART 2
DESCRIPTION OF SITE OF NEW PATH

Point A to Point B, as indicated on the map by a bold broken line: a length of public footpath 11 metres long and 1.5 metres wide across a footbridge over Old Turbary Drain leading in an east-south-easterly direction from a point on a track just north of the entrance to a property called Starcross on the western side of Old Turbary Drain at grid reference SE7642303359 to the inside north-west corner of an enclosure abutting the eastern bank of Old Turbary Drain at grid reference SE7643303357.

Point B to Point C, as indicated on the map by a bold broken line: a length of public footpath 105 metres long and two metres wide leading in a southerly direction from the inside north-west corner of an enclosure adjacent to the eastern bank of Old Turbary Drain at grid reference SE7643303357 along the inside western edge of the same enclosure adjacent to the eastern bank of Old Turbary Drain in a straight line save for a slight kink just north of the parish boundary to a point immediately south of the east-to-west drain followed by the parish boundary, which the path crosses by way of a footbridge, at grid reference SE7643103252.

Point C to Point D, as indicated on the map by a bold broken line: a length of public footpath 12 metres long and two metres wide leading in a west-south-westerly direction from grid reference SE7643103252 to the western side of a culverted section of Old Turbary Drain at grid reference SE7641903250.

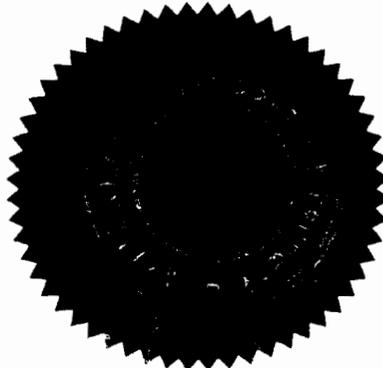
~~PART 3~~
~~LIMITATIONS AND CONDITIONS~~

~~The public footpath is subject to the right of the owner/occupier to supply and maintain British Standard approved pedestrian gates at Points B and C, as indicated on the map.~~

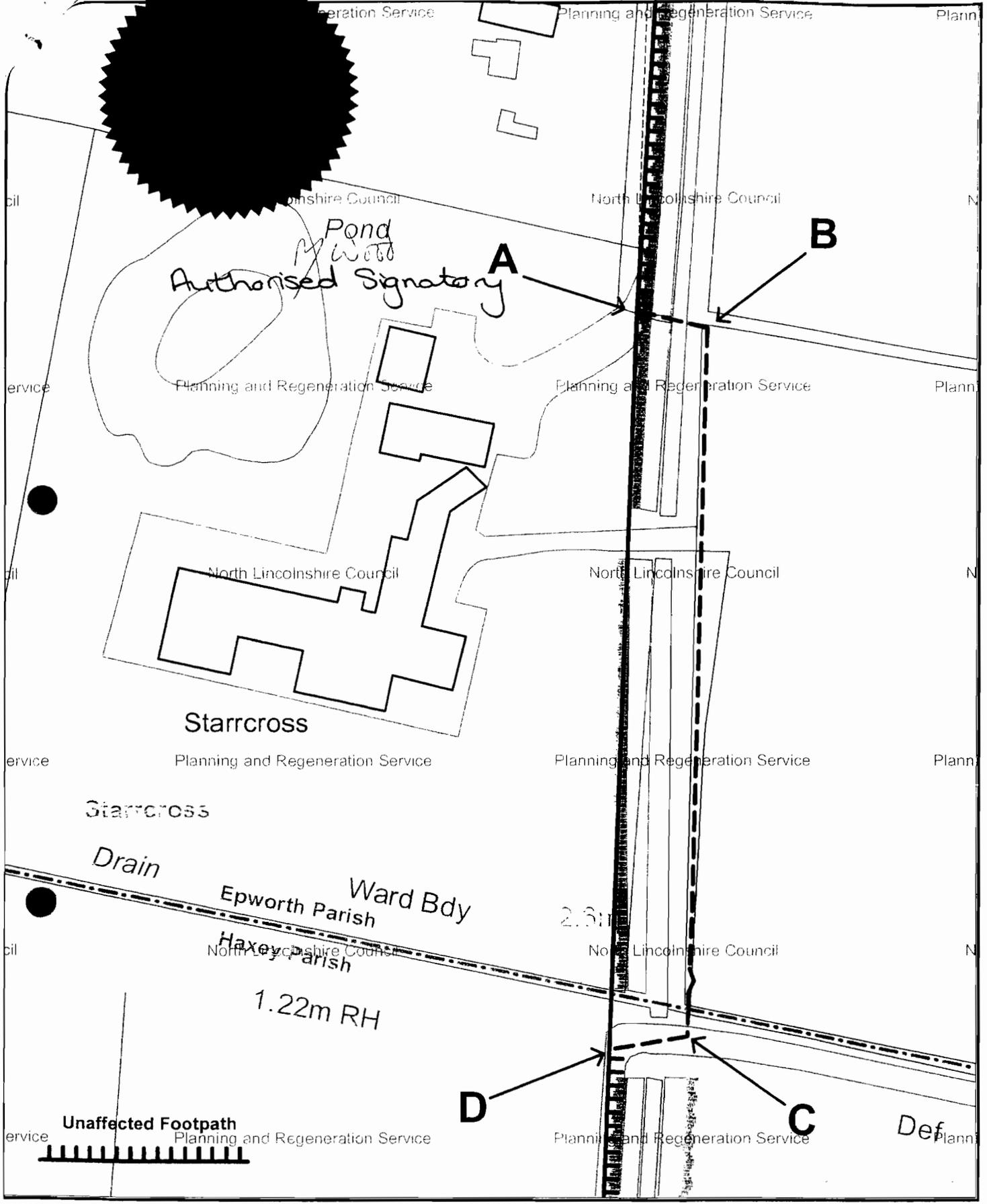
The COMMON SEAL of
NORTH LINCOLNSHIRE COUNCIL
was hereunto affixed
in the presence of:
M J J O B
(authorised signatory)

Seal Number: *5084*

Dated: *10th. MAY, 2006*



Seal No 5084



Drawing Title: Diversion of Public Footpath 74, Epworth and Haxey		Drawn by: CTW	Scale: 1:750	Date: 02/05/2006
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