

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**PROPOSED DIVERSION OF PUBLIC FOOTPATH 210,
AND PROPOSED STOPPING UP
OF PUBLIC FOOTPATH 210A, MANTON**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To determine an application from Sibelco UK, formerly WBB Minerals, temporarily to (1) divert a section of Public Footpath 210 and (2) stop up of Public Footpath 210A Manton.
- 1.2 The key points in this report are:
- a) the section of footpath 210 to be temporarily diverted proceeds in a southerly direction for 540 metres, then in an east-south-easterly direction for 840 metres;
 - b) the section of footpath 210A to be temporarily stopped up proceeds in an east-south-easterly direction for 770 metres;
 - c) the proposed diversion would proceed in an east-south-easterly direction for 730 metres along the inside of the northern perimeter of the site; and
 - d) all three routes adjoin Public Bridleway 241, which runs alongside the eastern perimeter of the site.

2. BACKGROUND INFORMATION

- 2.1 On 6th October 2004 members approved the making of an order under the Town and Country Planning Act 1990 to divert temporarily a length each of Public Footpaths 210 and 210A, Manton, for a period of five years.
- 2.2 The order was necessary for the implementation of Planning Application 1999/169. The Planning Application granted permission for the extraction of silica sand from land at Messingham Quarry, off Kirton Road, Manton.
- 2.3 Public Footpaths 210 and 210A Manton currently cross the land affected. In order for the operation of sand extraction to continue,

therefore, it is necessary that these paths remain closed. A safe alternative footpath has been provided along the northern perimeter of the site.

- 2.4 The report to Planning Committee on 6th October 2004 stated that if towards the expiry of five years it remained necessary for one or both footpaths to remain diverted/closed, a further report was to be resubmitted at that time in consideration of a further consecutive closure order being made.
- 2.5 Sibelco UK, formerly WBB Minerals, wish to make such a further order for an extra period of five years from the date of the order's confirmation (14th January 2005) or until the sand extraction is completed (whichever were to be the sooner).
- 2.6 Mr C J Day of Southfield, Redbourne, North Lincolnshire, DN21 4QR, the owner of the land in question, is agreeable to the application and for the footpath diversion and stopping up.
- 2.7 A restoration programme was agreed with the sand-extraction company prior to extraction commencing. This is to be implemented by the company on the cessation of works, and to a condition not substantially less convenient to the public.
- 2.8 As approached from the north, the section of Public Footpath 210 to be diverted runs from point A on the map in a first southerly direction then east-south-easterly from a point on the existing public footpath, some 660 metres south of Brigg Road and 683 metres west of Public Bridleway 241, to its junction with the existing public bridleway within the farmyard of Manor Farm at point B.
- 2.9 As approached from the west, the section of Public Footpath 210A to be stopped up runs from point C on the map in an east-south-easterly direction from a point on the existing Public Footpath 210, some 920 metres south of Brigg Road and 730 metres west of public bridleway 241, to its junction with the existing public bridleway, some 328 metres north of Manor Farm at point D. Appendix One shows the 730-metre-long public footpath that would replace it.
- 2.10 Appendix Two shows the location of the public rights of way within the Parish of Manton.
- 2.11 The application for the extension period of five years was made on 21 May 2009, under the original planning application 1999/169, by Sibelco UK, Brookside Hall, Congleton Road, Arclid, Sandbach, Cheshire, CW11 4TF.
- 2.12 The PROW General Appendix outlines the legal background in more detail.
- 2.13 Because the diversion and stopping up are both temporary, the definitive map and statement will not have to be modified in consequence.

3. OPTIONS FOR CONSIDERATION

- 3.1 Extend the temporarily diversion and stopping up orders [for a further five years or until mineral extraction ceases, whichever is the sooner] as requested.
- 3.2 Decline to extend the temporarily diversion and stopping up orders.

4. ANALYSIS OF OPTIONS

- 4.1 The route of the temporary diversion would follow the inside of the northern perimeter of the site in an east-south-easterly direction for 730 metres.
- 4.2 The width of the proposed footpath would be 1.5 metres for the comfort and convenience of members of the public using it and is suitable underfoot for use as a footpath.
- 4.3 To uphold Sibelco UK's application North Lincolnshire Council must be satisfied that the requirements of section 257 and 261 of the Town and Country Planning Act 1990 have been met, as referred to in paragraph 6.1 below.
- 4.4 Officers believe that the proposed temporary diversion of a section of Public Footpath 210 and the proposed temporary stopping up of Public Footpath 210A are both necessary if sand extraction is to be continued.
- 4.5 Effectively the original temporary stopping-up order required that the footpaths be restored after five years at the latest. The mineral company have therefore undertaken to restore the footpaths. If approval to make further diversion and stopping-up orders is given, extraction will recommence thereafter.

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

5.1 Financial

- 5.1.1 The full cost incurred in the making of the order and the cost of advertising the making, confirming and certifying of the order under the Town and Country Planning Act 1990 to be met by the applicant, Sibelco UK. It is North Lincolnshire Council policy to charge applicants in full, as the law permits ("Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993").

5.2 Staffing

- 5.2.1 From within the existing complement of the Environment Team.

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

1 Statutory

6.1.1 Under section 257 of the Town and Country Planning Act 1990, a local planning authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary, not simply desirable, to do so in order to enable development granted under Part Three of the Act to be carried out.

6.1.2 Under section 261 of the Town and Country Planning Act 1990, where a local planning authority are satisfied, a) that an order made by them under section 257 is required for the purposes of enabling minerals to be worked by surface working and b) that the footpath or bridleway can be restored after the minerals have been worked, to a condition not substantially less convenient to the public, the order may provide for the stopping up or diversion of the footpath or bridleway during such period as may be prescribed by or under the order, and for its restoration at the expiration of that period.

6.1.3 The order may contain provisions for the stopping up at the expiry of the period of any highway which has been diverted and for the reconstruction and maintenance of the original highway.

6.1.4 If North Lincolnshire Council are satisfied that they should provide for the creation of an alternative highway for use as a temporary replacement for one affected by mineral extraction, they may do so.

6.1.5 "Minerals" includes all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working. (Town and Country Planning Act 1990, section 336(1)).

6.1.6 The diversion and stopping up must be necessary to enable mineral extractions to be carried out.

6.2 Environmental

6.2.1 The temporary replacement footpath is attractive and equally as commodious to walkers. Furthermore, the new hedgerows and woodland strips and corridors to be planted following the completion of sand extraction should enhance the aesthetics of

the landscape through which Public Footpaths 210 and 210A run.

6.3 Risk

6.3.1 Any order made to divert a public footpath, even if only temporary, can be objected to. North Lincolnshire Council cannot confirm an order to which there remains an outstanding objection or representation correctly served during the four-week objection period. We can either formally resolve not to pursue an objected order to confirmation or send it to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

6.3.2 If a statutory undertaker objects because the order creates a public right of way over land covered by works used for the purpose of their undertaking, or if the objection is not withdrawn, the order becomes subject to special parliamentary procedure.

6.3.3 Orders referred to the Secretary of State will be dealt with by written representations, hearing or inquiry. The order-making authority must normally meet their own costs, but in the case of inquiries can claim costs against a third party thought to have been acting unreasonably.

6.4 Section 17 Crime and Disorder

6.4.1 None

6.5 Diversity

6.5.1 None

6.6 Other

6.6.1 None

7. **OUTCOMES OF CONSULTATION**

7.1 Full consultation has taken place with all user groups, statutory undertakers, Manton Parish Council and Messingham Parish Council. (Please see Appendix Three.) None has indicated an intention to object should an order be made.

8. **RECOMMENDATIONS**

8.1 It is recommended that members:

8.1.1 approve the making of an order to extend the temporary diversion of part of Public Footpath 210, Manton; and

8.1.2 approve the making of an order to extend the temporary stopping up of Public Footpath 210A, Manton. An alternative

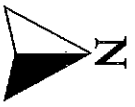
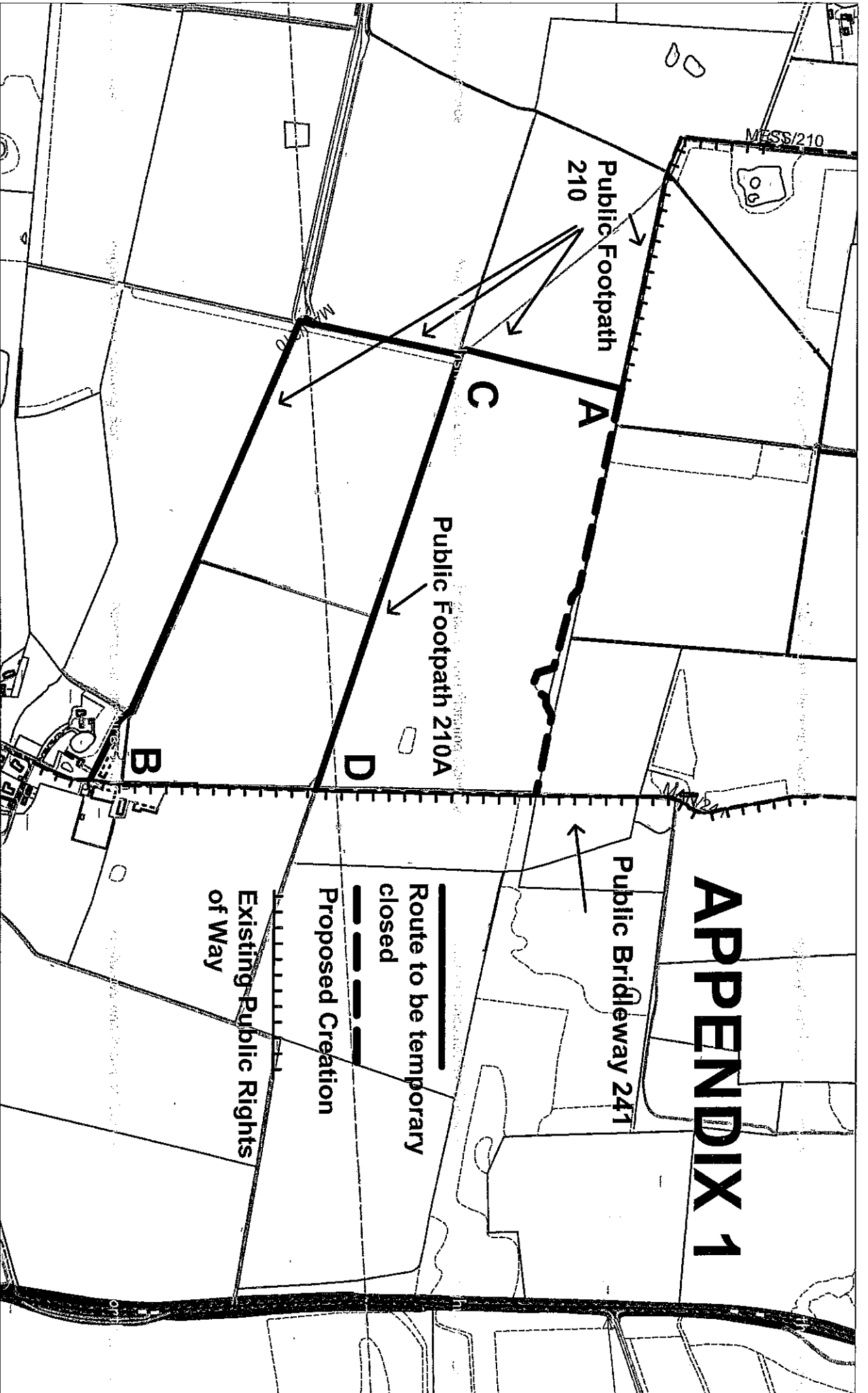
footpath along the northern perimeter of the site would be retained throughout the stopping-up period.

- 8.2 Both orders would be made under sections 257 and 261 of the Town and Country Planning Act 1990. Their duration would be five years or until mineral extraction over the land crossed by the footpaths ceased, whichever were the sooner.
- 8.3 The order would commence on the 14th January 2010, this being the date of expiry of the existing orders diverting and stopping up FPs 210 and 210A respectively.
- 8.4 The making of the new temporary orders would be contingent on the footpaths currently closed first being restored and briefly reopened.
- 8.5 It is recommended further that members:
 - 8.5.1 allow the Service Director Highways and Planning to confirm the order if it is unopposed; and
 - 8.5.2 agree to receive a further report should the diversion order be duly opposed.

Church Square House
SCUNTHORPE
North Lincolnshire
DN15 6XQ
Author: Anita Greener
Date: 27th August 2009

Background Papers used in the preparation of this report: office file "Temporary Diversion of Public Footpaths 210 and 210A, Manton" held electronically at Church Square House, Scunthorpe

APPENDIX 1



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Drawing Title: Proposed temporary diversion Public Footpath 210 and 210A Manton

Drawn by: AG

Date: 22/06/2009

Scale: NOT TO SCALE

OS Grid Ref: SE93230346

Existing Public Rights
of Way

Proposed Creation

Route to be temporary
closed

Highways and Planning Service

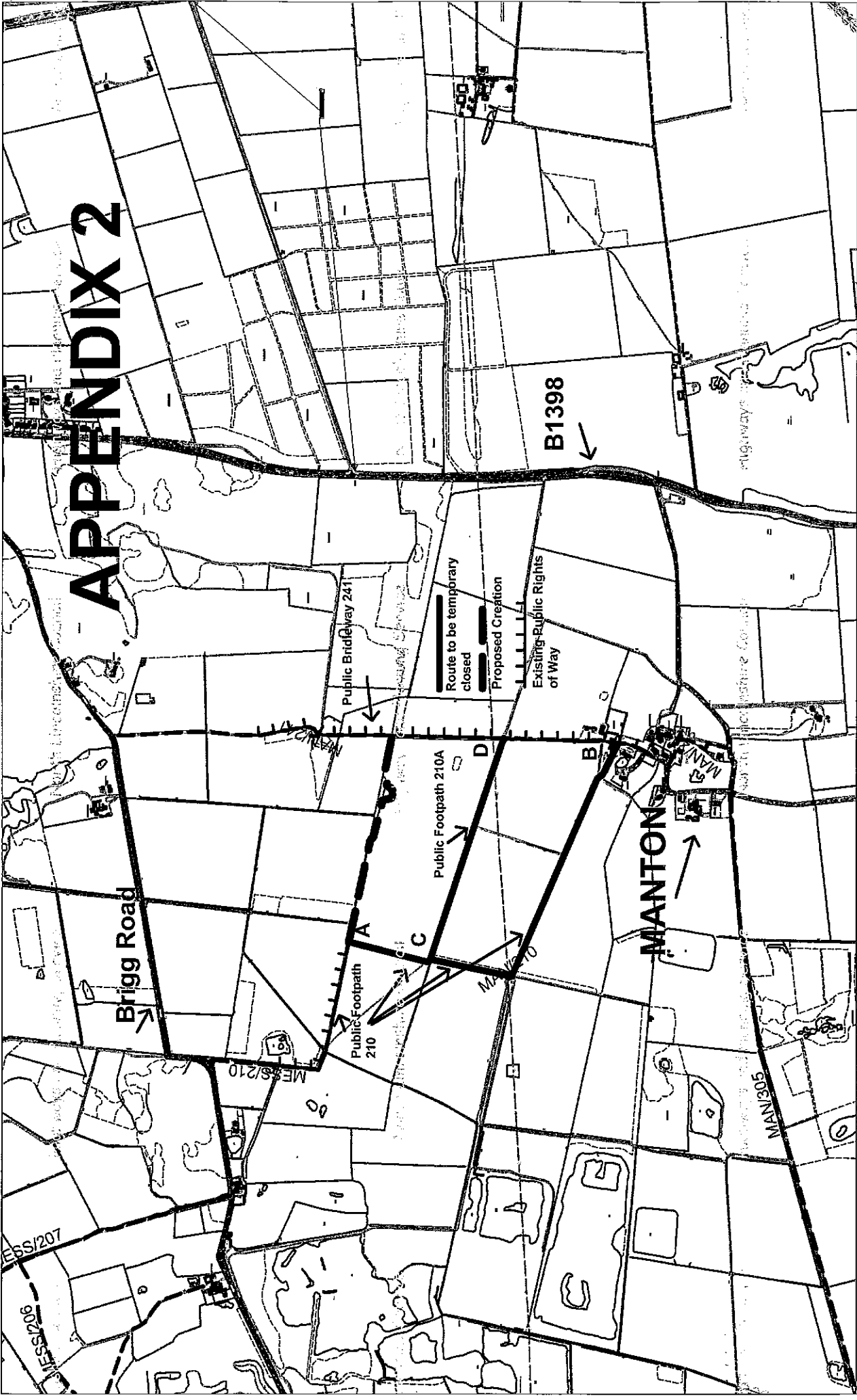
Service Director,

G Pepple



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APPENDIX 2



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Highways and Planning Service
Service Director,
G Popple



APPENDIX 3

Public Path Orders – Consultees

- Hazel Armstrong, British Horse Society, Window Box Cottage, Church Street, Burton Pidsea, Hull, HU12 9UA
- Byways and Bridleways Trust, PO Box 117, Newcastle upon Tyne, NE3 5YT
- Open Spaces Society, 25c Bell Street, Henley on Thames, Oxfordshire, RG9 2BA
- Auto Cycle Union, ACU House, Wood Street, Rugby, Warwickshire, CV21 2YX
- Cyclists' Touring Club, Parklands, Railton Road, Guildford, Surrey, GU2 9JX
- David Knight, Cyclists' Touring Club, Boston Cottage, Chapel Street, Goxhill, North Lincolnshire, DN19 7JJ
- Ramblers' Association, 2nd Floor, Camelford House, 87-90 Albert Embankment, London, SE1 7TW
- British Driving Society, c/o Secretary Mrs T K Styles, 83 New Road, Helmingham, Stowmarket, Suffolk, IP14 6EA **(but only in respect of Wildlife and Countryside Act 1981 orders)**
- Lt Col Peter Robinson, British Driving Society, Sunningdale, Meadow Road, Langtoft, Lincolnshire, PE6 9LB **(but only in respect of (1) Wildlife and Countryside Act 1981 orders and (2) vehicular routes)**
- British Horse Society, British Equestrian Centre, Stoneleigh Deer Park, Stareton Lane, Kenilworth, Warwickshire, CV8 2XZ
- Kevin Dowell, Footpath Officer, Scunthorpe & District Group, Ramblers' Association, 26 Milton Road, Ashby, Scunthorpe, North Lincolnshire, DN16 3EH
- Mr A G Parker, Ramblers' Association, 11 Central Square, Brigg, North Lincolnshire, DN20 8QJ
- Mr C Padley, Lincolnshire Fieldpaths Association, Hambleton Cottage, Walesby Road, Market Rasen, Lincolnshire, LN8 3EY
- Gerry Blythe, North East Midlands Branch, Association of Motor Clubs, Lekeburn, 27 Kenwick Road, Louth, Lincolnshire, LN11 8EH
- Stuart Earl Crooks, Director, Lincolnshire Wildlife Trust, Banovallum House, Manor House Street, Horncastle, Lincolnshire, LN9 5HF

- Naomi – to add route to electronic mapping layer (for Planning to take note of)
- Chief Estates and Property Services Manager (**Memo**)
- Mark Drust, Performance and Partnerships, Neighbourhood and Environment, Church Square House (**Memo**)
- Caroline Ellis, National Farmers' Union, 30 Chapel Street, Epworth, Doncaster, DN9 1HH
- Mr P Tame, National Farmers' Union, Agriculture House, Northgate, Uppington, Rutland, LE15 9NX
- Mr A Shirley, Country Land and Business Association, The Wagon Hovel, Sutton Lodge, Sutton Bassett, Market Harborough, Leicestershire, LE16 8HL
- CE Electric UK, Records Information Centre, New York Road, Shiremoor, Newcastle upon Tyne, NE27 0LP (tel. 0191 229 4295/fax. 0191 229 4287)
- National Grid, Land and Development, PO Box 3484, Warwick, CV34 6TG
- Plant Protection, National Grid Gas Distribution, Block 1 Floor 2, Brick Kiln Street, Hinckley, Leicestershire, LE10 0NA
- Yorkshire Water, Woodside, Halifax Road, Bradford, BD6 2LZ
- BT Notice Handling Centre, PP 404B, Telecom House, Trinity Street, Hanley, Stoke on Trent, ST1 5ND (Tel. 01782 288088/fax. 01782 204846)
- Openreach
- ntl Group Limited, Roberts House, De Havilland Avenue, Preston Farm Business Park, Stockton-on-Tees, TS18 3TH
- Anglian Water Services Ltd, PO Box 770, Lincoln, Lincolnshire, LN5 7WX
- Legal Department, Severn Trent Water, 2297 Coventry Road, Birmingham, B26 3PU
- Manton Parish Council
- Messingham Parish Council