

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

Proposed Creation of Public Footpath by Agreement at Haxey

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To add a Public Footpath to the Definitive Map
- 1.2 The key points in this report are:
 - a) As part of an agreement to divert part of Public Footpath 85 Haxey, the applicant agreed to dedicate a new section of public footpath.
 - b) The new footpath that is proposed will be created by agreement with the landowner under section 25 of the Highways Act 1980.
 - c) The new footpath route, if created, will be added to the "County of Lincoln, Parts of Lindsey (Isle of Axholme)" definitive map and statement in consequence of the dedication.

2. BACKGROUND INFORMATION

- 2.1 Public Footpath 85 Haxey has been diverted as shown on appendix one.
- 2.2 Mr P Morris, the owner of the land over which the proposed creation will run, agreed to the creation of a new footpath when applying for the diversion order.
- 2.3 The new footpath is 420 metres long and two metres wide and is shown at appendix two.
- 2.4 Authority to raise the public path diversion order was given by the Service Director, Highways and Planning, under delegated powers.
- 2.5 The Service Director, Highways and Planning has no delegated authority to enter into a public path creation agreement, under section 25 Highways Act 1980.
- 2.6 The new footpath creation will be added to the definitive map and statement under the Wildlife and Countryside Act 1981, section 53(2)(b) and (3)(a)(iii)).

3. OPTIONS FOR CONSIDERATION

- 3.1 Agree to enter into an agreement with Mr P Morris to create the footpath described.
- 3.2 Decline to enter into an agreement with Mr P Morris to create the footpath described.

4. ANALYSIS OF OPTIONS

- 4.1 The creation of the public footpath will enhance the local area by allowing users to make better use of the existing public path network.
- 4.2 Increasing the public rights of way provision within North Lincolnshire is one of the objectives of the Rights of Way Improvement plan. The extra route would contribute towards this objective.
- 4.3 Declining to agree to the creation order will have no effect on the existing network.

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

5.1 Financial

- 5.1.1 The full cost incurred in the making of the footpath creation under section 25 of the Highways Act 1980 and the cost of advertising the dedication to be met by North Lincolnshire Council.
- 5.1.2 The cost of advertising the creation is estimated at £250.
- 5.1.3 The new public footpath would be maintainable at the public expense. However, North Lincolnshire Council's only additional cost would be seasonal wayclearance and the erecting of one signpost.

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

- 6.1.1 It appears to North Lincolnshire Council that in the interests of the public the extra footpath should be created.
- 6.1.2 A footpath or bridleway can be expressly dedicated to the public by someone with the capacity to do so. For example, the owner of the land. Dedication must be to the public as a whole and must be for all time. To come into being, the public themselves must accept the dedication.
- 6.1.3 North Lincolnshire Council are obliged to take all necessary steps to secure the dedication of a footpath or bridleway created by an agreement to which they are party (Highways Act 1980, section 25(5)).
- 6.1.4 As soon as dedication has taken place, we must advertise the fact in at least one local newspaper to the area in question (Highways Act 1980, section 25(6)).
- 6.1.5 Footpaths or bridleways dedicated to the public in pursuance of a creation agreement under section 25 of the Highways Act 1980 are maintainable at the public expense (Highways Act 1980, section 36(2)(d)).
- 6.1.6 A public footpath is a highway for use on foot only.
- 6.1.7 The new footpath, once created, must be added to the definitive map and statement as soon as reasonably practicable (Wildlife and Countryside Act 1981, section 53(2)(b)). But because creations are matters of fact, rather than evidence-based, the modifications of the definitive map would not require advertising.
- 6.1.8 The order would be made with due regard being given to: a) the needs of agriculture (including the breeding and keeping of horses) and forestry and b) the desirability of conserving flora, fauna and geological and physiographical features (Highways Act 1980, section 29). Also, under section 40 of the Natural Environment and Rural Communities Act 2006, "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity".

6.2 Environmental

- 6.2.1 An accurate definitive map and statement, as well as being a legal requirement, increases public confidence in the public rights of way network and, therefore, the amount of use made of it by them. This, in turn, helps boost the rural economy, reduce

reliance on motor vehicles and promote healthier lifestyles through exercise in the open air.

6.3 Risk

6.3.1 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.

6.3.2 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 and Haxey Parish Council.

7.2 None have stated any intention to object.

8. **RECOMMENDATIONS**

8.1 It is recommended:

8.1.1 that North Lincolnshire Council enter into an agreement with Mr P Morris under section 25 of the Highways Act 1980 to create the 420 metres of new footpath outlined in this report;

8.1.2 that the new footpath be added to (1) the "County of Lincoln, Parts of Lindsey (Isle of Axholme)" definitive map and statement (as soon as reasonably practicable after creation) and (2) the list of streets (the register of highways maintainable at public expense held and kept under section 36(6) of the Highways Act 1980).

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Background Papers used in the preparation of this report: office parish file
“Haxey FP85”, held electronically at Church Square House, Scunthorpe.

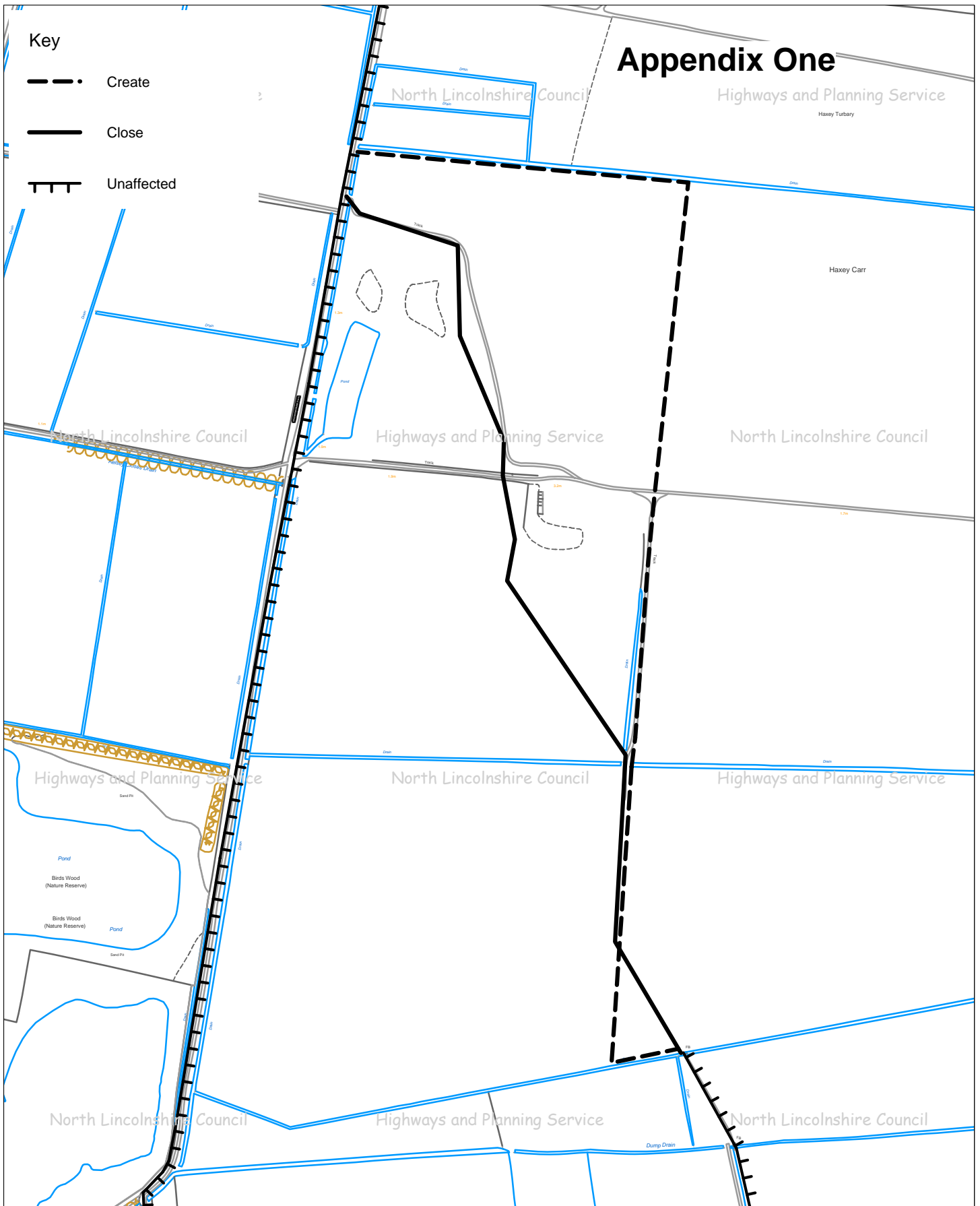
Appendix One

Highways and Planning Service

Haxey Turbary

Key

-  Create
-  Close
-  Unaffected



Drawing Title: Proposed Diversion FP85 Haxey

OS Grid Ref: SE74480130

Drawn by: DAS

Scale: 1:5,000

Date: 15/12/2009



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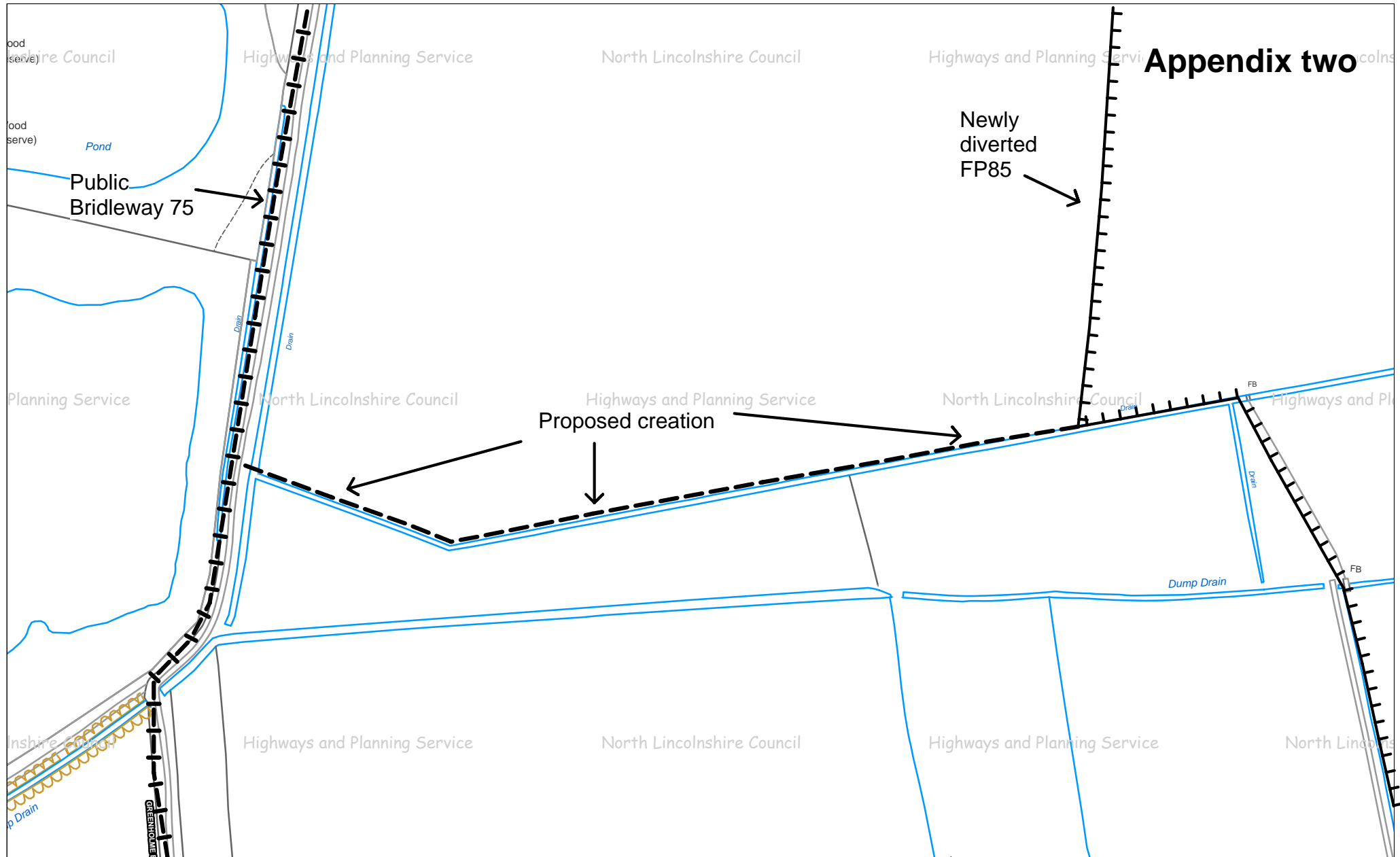


Highways and Planning Service

Service Director,
G Popple

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Appendix two




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Drawing Title: Haxey FP creation agreement App2	
Drawn by: DAS	Date: 17/11/2010
Scale: 1:2,500	OS Grid Ref: SE74410084



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