

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

PUBLIC FOOTPATH 171, BURTON UPON STATHER

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To decide whether to submit a public path diversion order to the Secretary of State (SoS) for Environment, Food and Rural Affairs.

2. BACKGROUND INFORMATION

- 2.1 An order was made in 2010 to divert part of Public Footpath 171 located in Burton upon Stather.
- 2.2 The Service Director Highways and Planning approved the making of the order. This was on 23 December 2010. The new line would avoid a steep slope. It would also provide better access to Stather Road, via Public Footpath 169 (see Appendix 1).
- 2.3 There were two objections. One was subsequently withdrawn (see Appendix 2).

3. OPTIONS FOR CONSIDERATION

- 3.1 Members could submit the order to the SoS. Alternatively, they could resolve not to continue. If the order were submitted, it could be as made or with suggested modifications.

4. ANALYSIS OF OPTIONS

- 4.1 The SoS would use written representations, a hearing or an inquiry to determine the order. Written representations are the likeliest option.
- 4.2 Were the order abandoned, the existing line would remain.

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

- 5.1 There are no significant resource implications to consider.

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

6.1 Statutory

6.1.1 See Appendix 3, paragraphs 6.1.3 and 6.1.6.

6.2 Environmental

6.2.1 Walkers should find the diverted line easier to use. Disabled walkers would particularly benefit. This is because the surface is level and therefore safer.

6.2.2 The diversion would reduce disturbance to nesting birds and other wildlife.

7. OUTCOMES OF CONSULTATION

7.1 Burton upon Stather Parish Council, user groups and statutory undertakers were consulted before the order was made. None of these groups raised any objections to the proposal.

8. RECOMMENDATIONS

8.1 It is recommended the order is submitted to the SoS for confirmation as made.

DIRECTOR OF PLACES

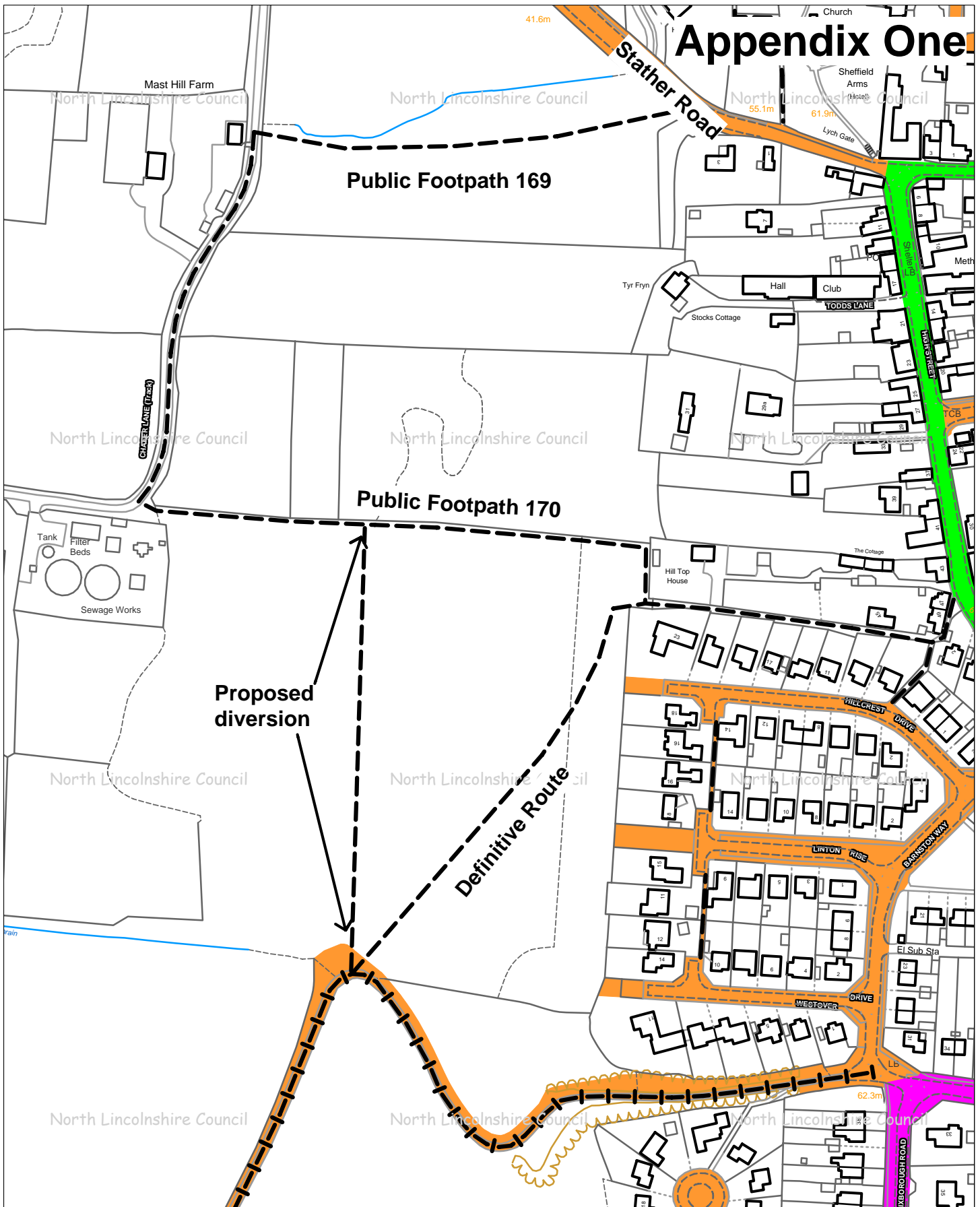
Church Square House
Church Square
PO Box 42
SCUNTHORPE
North Lincolnshire
DN15 6XQ

Author: Dave Sanderson

Date: 17 August 2012

Background Papers used in the preparation of this report: Office file: Burton FP171 proposed HA Act Diversion. Stored electronically at Church Square House

Appendix One



Drawing Title: Appendix One

OS Grid Ref: SE86841759

Drawn by: DAS

Scale: 1:2,500

Date: 30/08/2012



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Ordnance Survey 0100023560



Places
Director,
Peter Williams BSc, DMS, CEng, MEI, MCMI, AMIMechE

From: Edward anderson [REDACTED]
To: Dave Sanderson <Dave.Sanderson@northlincs.gov.uk>

Date: Friday, November 18, 2011 07:42PM
Subject: Re: Proposed Definitive Map Order FP171, Burton upon Stather

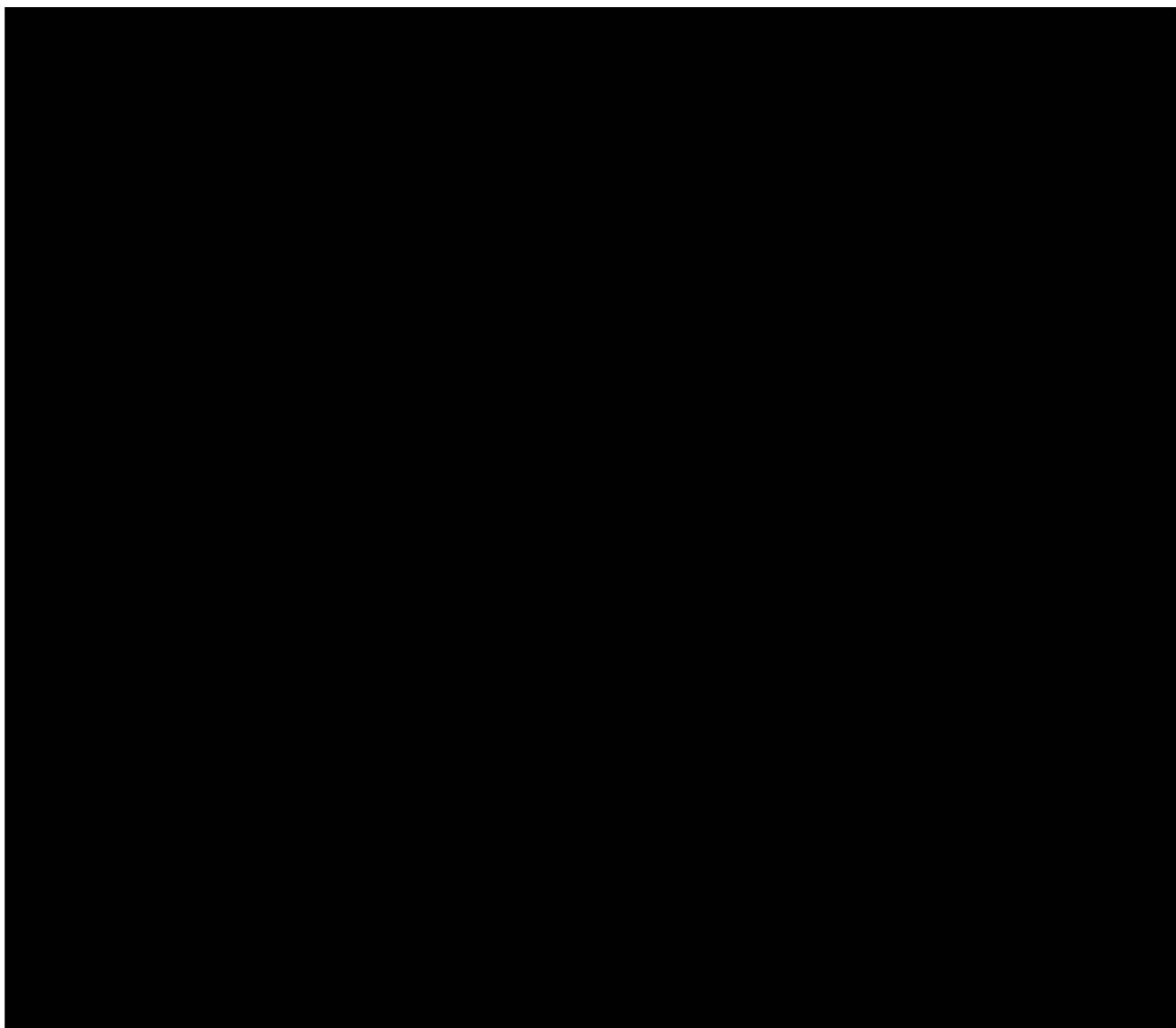
Dave

Thank you for your reply and explanations and I will withdraw my objection re BUR171.

Regards
Edward.

P.S. Nice job on the steps from the Beacon today - keep it up and you'll complete the whole route!

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Appendix Three

PUBLIC RIGHTS OF WAY- AUTHORITY TO MAKE ORDER

NORTH LINCOLNSHIRE COUNCIL

SERVICE DIRECTOR HIGHWAYS AND PLANNING

PROPOSED DIVERSION OF PUBLIC FOOTPATH 171, BURTON STATHER

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To seek authority to divert part Public Footpath 171 Burton Stather
- 1.2 The key points in this report are:
 - a) The majority of FP171 runs diagonally up a very steep hillside.
 - b) The proposed diversion route, being on, more or less, level ground, would benefit people such as the elderly and those with mobility problems who cannot walk up the hillside, either at all or without difficulty.
 - c) By diverting this section of footpath, a further "long-term problem" would be eradicated.

2. BACKGROUND INFORMATION

- 2.1 FP 171 runs from Wood Lane to public footpath 170 as shown at appendix one. It has a total length of 225 metres. The proposed route would be 210 metres. It should be noted that the route shown at appendix one is for information purposes only as a detailed survey would need to be carried out to avoid any areas of standing water etc.
- 2.2 The current route is inaccessible to most users, being on a very steep hillside and prone to dense overgrowth.
- 2.3 It is considered that the proposed route is safer, available to a much greater number of users and easier to maintain.
- 2.4 An order to divert would be made under section 119 of the Highways Act 1980 in the interests of the public.

3. OPTIONS FOR CONSIDERATION

3.1 Make the diversion as requested.

3.2 Decline to make the diversion.

4. ANALYSIS OF OPTIONS

4.1 The proposal would take the footpath from a very steep diagonal hillside onto a much safer route across the same field but on level ground.

4.2 The width of the proposed footpath would be two metres throughout, for the comfort and convenience of members of the public using it. The route is similar in length to the present one and suitable underfoot for use as a footpath.

4.3 If this section of path is not diverted then a path will need to be dug into the hillside with the extra cost of providing handrails.

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

5.1 Financial

5.1.1 The full cost of advertising and administering the making of the order and the cost of advertising the confirming of the order under the Highways Act 1980 to be met by North Lincolnshire Council. (Estimated to be £500 plus officer time. The amount of officer time will depend on whether the order is contested. If it is not, the time taken will be minimal. If there are objections, Planning Committee will have a further opportunity to consider whether proceeding with the order is worthwhile).

5.1.2 It is North Lincolnshire Council's policy to reclaim our costs in full (as permitted by the "Local Authorities (Recovery of Costs for Public Path Orders) Regulation 1993"). However, it is suggested that North Lincolnshire Council pay for this diversion, as it is in the interest of the public that the path is diverted.

5.2 Staffing

5.2.1. From within the existing compliment of the Environment Team. If the order was to be approved and North Lincolnshire Council were to pursue it to confirmation, Legal Services' assistance 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 It appears to North Lincolnshire Council that, in the interests of the public, it is expedient that part of the line of Public Footpath 171 should be diverted (Highways Act 1980, section 119(1)).

6.1.2 The southern point of termination will not be altered. The northern point will be moved approximately 140 metres west. The proposed line of the footpath is considered to be substantially as convenient to the public, the extra distance walked (130 metres) being negligible. Although the diversion still requires walkers bound for Hillcrest Drive to climb the hill, this will be far easier for them as steps have been erected on FP170. Also, walkers wishing to go west to Chafer Lane will not need to climb the hillside before descending down FP170.

6.1.3 It is not thought that the order would fail to meet the test upon which confirmation is dependant, namely: a) whether the diversion would make the path substantially less convenient to the public; b) whether the diversion is expedient, having regard to: i) its effect on the public's enjoyment of the path as a whole, ii) its effect on other land served by the existing public right of way and iii) the effect that the new route would have on land it crosses and any land held with it crosses and any land held with it (Highways Act 1980, section 119(6); and c) consideration with regard to any material provision in the North Lincolnshire Council rights of way improvement plan.

6.1.4 The order will not extinguish a right of way over land under, in upon, over along or across which there is any apparatus belonging to or used by statutory undertakers (Highways Act 1980, section 121 (4)).

6.1.5 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 these functions, to the purpose of conserving biodiversity".

6.1.6 Section 53A of the Wildlife and Countryside Act 1981 permits an order-making authority to combine public path orders with the order needed to modify the definitive map and statement in consequence of the former taking effect. Though there is no requirement to make combined orders, use of the provision should streamline the process.

6.1.7 Under the Equality Act 2010, in carrying out their functions, public authorities must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from their functions, as others would do, or to show that there are good reasons for not doing so. Although this must be balanced against the operational needs of landowners, in this instance, the sole landowner is in agreement.

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 Any order made to divert a public footpath 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 the order to confirmation or send it to the Secretary of State for Environment, Food and Rural Affairs for confirmation, with or without recommended modification.

6.3.2 Order 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 case of inquiries can claim costs against a third party thought by the Secretary of State 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 The views of all the user groups, potentially affected statutory undertakers, the Land Owner and Burton Stather Parish Council have been sought.

7.2 None of the above has indicated an intention to object should an order be made.

7.3 During previous consultations some local residents stated that they would object to the order if one were raised. This however was in the belief that the path ran at the rear of properties on Hillcrest Drive and not as shown on the Definitive Map. This led to a local resident serving notice on North Lincolnshire Council under section 53 (5) of the Wildlife and Countryside Act 1981 to modify the definitive map. The application was considered and formally rejected by the Service Director Highways and Planning.

8. RECOMMENDATIONS

8.1 Approve the making of a combined order under section 119 of the Highways Act 1980 and section 53A of the Wildlife and Countryside Act 1981 in the interests of the public.

8.2 Allow North Lincolnshire Council to confirm the order if it is unopposed.

8.3 Agree to send Planning Committee a further report should the order be duly opposed.

9. DECISION

9.1 The recommendations of this report are:

(a) agreed

(b) declined

(c) Deferred to Planning Committee

9.2 Comments (if any)

None

9.3 Signed by:



Geoff Popple
Service Director Highways and Planning

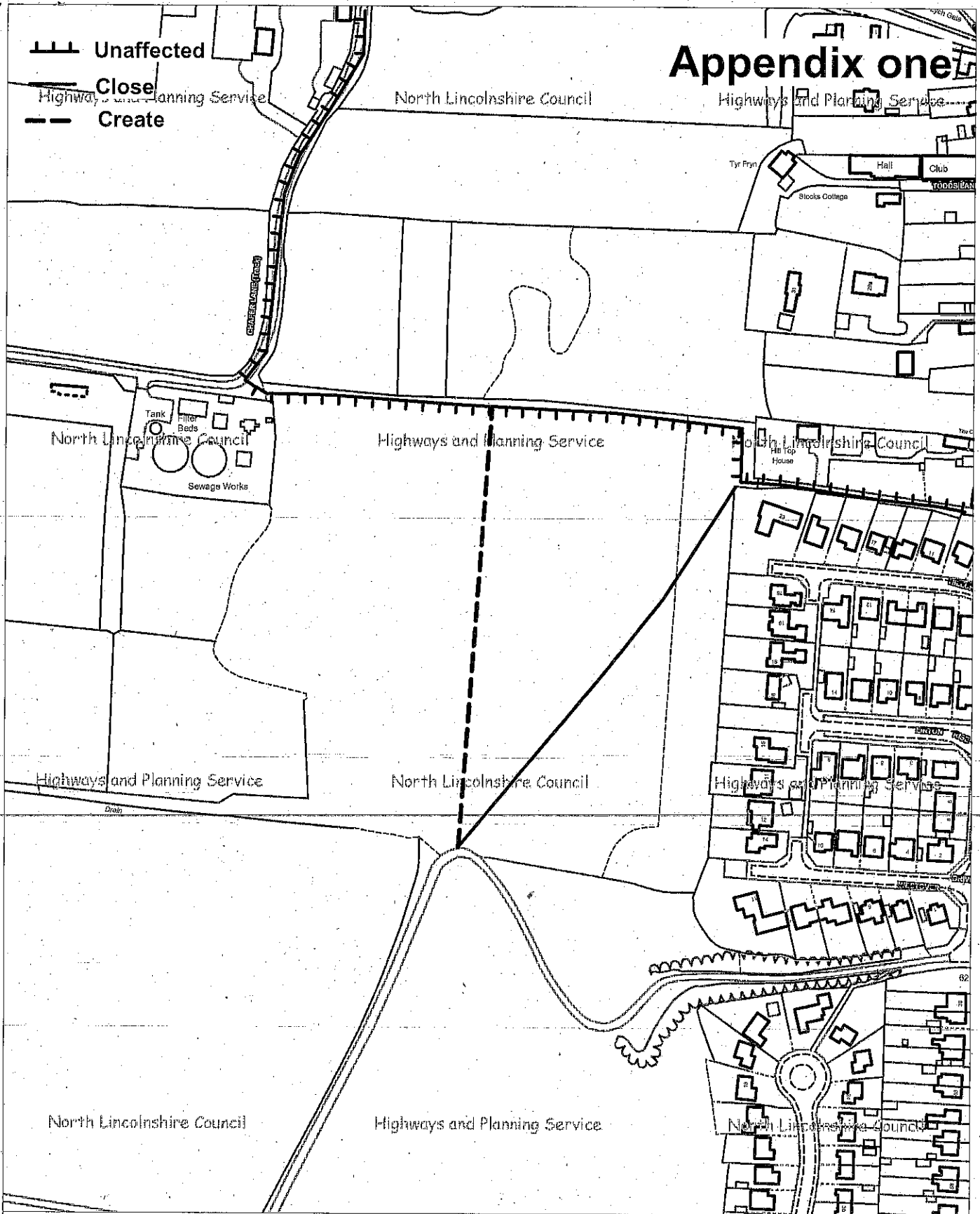
Dated: 23 Dec 2010

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DN156XQ

Author: Dave Sanderson
Date: 15 December 2010

**Background Papers used in the preparation of this report: Burton Stather
FP171 (Diversion File).**

Appendix one



Drawing Title: Burton FP171 Appendix one

OS Grid Ref: SE86791753

Drawn by: DAS

Scale: 1:2,500

Date: 15/11/2010



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NORTH LINCOLNSHIRE COUNCIL 0100023560 2010



Highways and Planning Service

Service Director,
G Pople

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