

**NORTH LINCOLNSHIRE COUNCIL**

**PLANNING COMMITTEE**

**PUBLIC FOOTPATH 180, GUNNESS**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To seek authority of the Planning Committee to divert part of Public Footpath 180 (FP180), Gunness under section 257 of the Town and Country Planning Act 1990 (TCPA1990).

**2. BACKGROUND INFORMATION**

- 2.1 Officers have consulted the developers of the proposed new retail park at Trent Valley Garden Centre (Planning Application PA/2011/1088). As a result, the need to divert part of FP 180 Gunness has become apparent. The Committee needs to agree this.
- 2.2 The planning application was considered previously by the Committee. Planning consent was granted subject to successfully concluding a Section 106 agreement.
- 2.3 Appendix 1 shows the location of the site.

**3. OPTIONS FOR CONSIDERATION**

- 3.1 The Committee could either:
- Make a diversion order under section 257 TCPA 1990.
  - Decline to make a diversion order under section 257 TCPA 1990.
- 3.2 If a combined order is made under section 53A of the Wildlife and Countryside Act 1981, officers will modify the definitive map when the diversion takes effect.

**4. ANALYSIS OF OPTIONS**

- 4.1 The diversion is necessary in order to implement the planning consent previously approved.

- 4.2 Appendix 2 shows the proposed diversion.
- 4.3 The developer will need to redesign unit one if authority is not granted to raise an order. This is because FP180, Guinness runs through part of that unit.
- 4.4 The existing path would also run along a service road, which could lead to conflict between users on foot and heavy goods traffic.
- 4.5 Appendix 3 shows the effect that the route of FP180 Guinness has on the proposed development.

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

- 5.1 Financial
  - 5.1.1 The developer will have to bear the full cost of making the order and the construction of the new path.
- 5.2 There are no direct staffing, property or IT implications to consider.

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

- 6.1 Statutory
  - 6.1.1 Implications under the Town and Country Planning Act, 1990 and the Wildlife and Countryside Act, 1981 arise. Appendix 4 provides more details for the Committee to consider.
- 6.2 Environmental
  - 6.2.1 It is proposed to construct the new path using slag/slag dust. This is a bi-product of the steel making process.
- 6.3 Risk
  - 6.3.1 Failure to divert the path will at best delay the proposed retail park and, at worse, might cause the developers to abandon the project.
- 6.4 Section 17 Crime and Disorder
  - 6.4.1 The proposed new route will be within a landscaped five metre wide public open space and will be separate from the service road.
- 6.5 There are no direct diversity or other implications to consider.

## 7. OUTCOMES OF CONSULTATION

- 7.1 Appendix 5 contains a list of those consulted on this matter. None of the consultees have indicated that they are likely to object to the proposal.

## 8. RECOMMENDATIONS

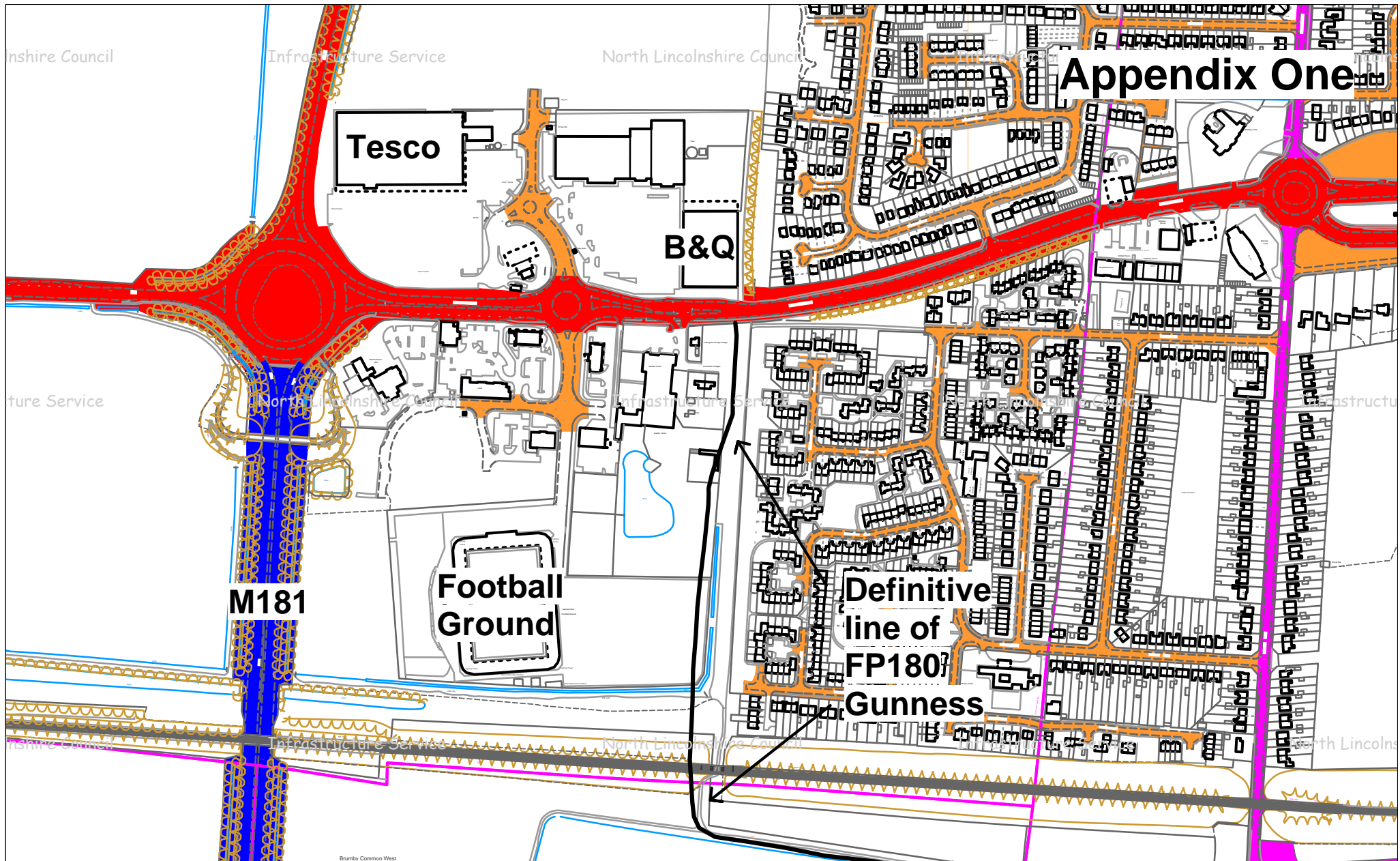
- 8.1 It is recommended that the Planning Committee approves that:
- 8.1.1 An order is made to divert part of FP 180, Gunness from its definitive line on to the route shown at Appendix 2;
  - 8.1.2 If the order is unopposed, the order is thereby confirmed.
  - 8.1.3 If the order is opposed, that a further report is brought forward on the matter to the Planning Committee in the future.


### **DIRECTOR OF INFRASTRUCTURE SERVICES**

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Date: 9 February 2011


#### **Background Papers used in the preparation of this report:**

Office file: Gunness FP180 proposed TCPA Diversion. Stored electronically at Church Square House




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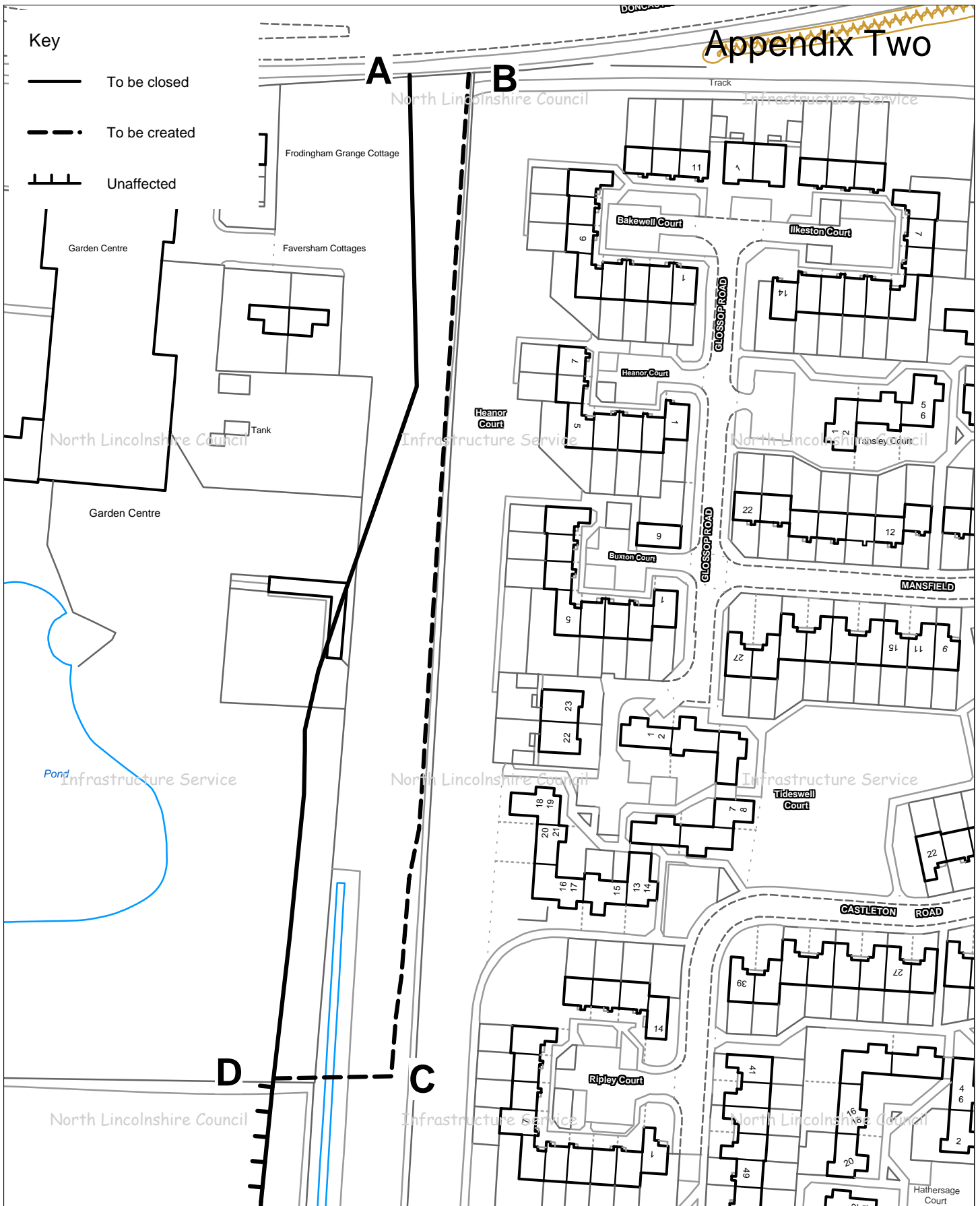
Drawing Title: Appendix one Gunness FP180 proposed diversion	
Drawn by: DAS	Date: 16/01/2012
Scale: 1:5,000	OS Grid Ref: SE86651096



**Infrastructure Service**

Director,  
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Drawing Title: Gunness FP180 proposed diversion

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Date: 21/11/2011



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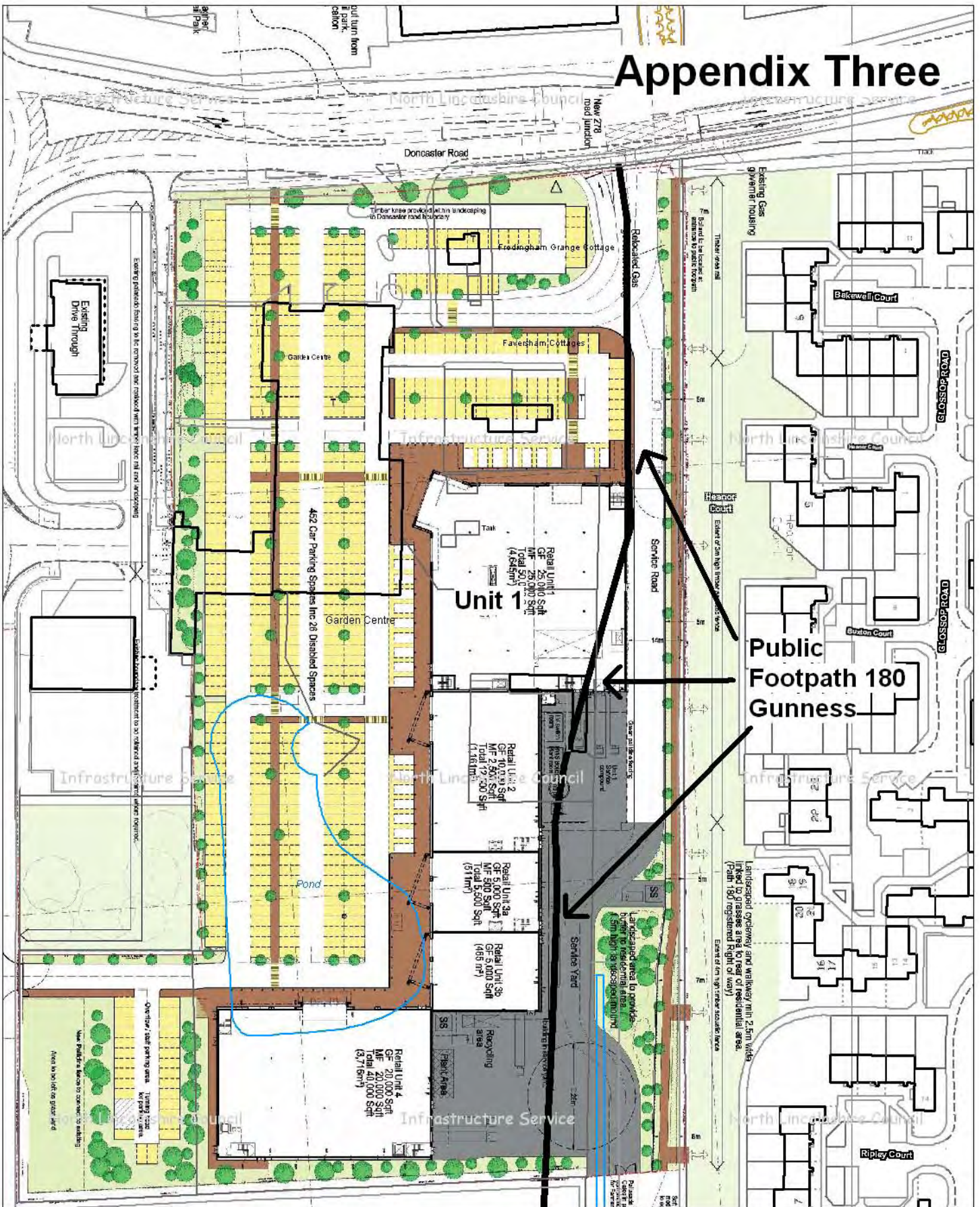


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# Appendix Three



Drawing Title: Appendix Three Guinness FP180 proposed diversion

OS Grid Ref: SE86641094

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## Appendix Four

### **Town and Country Planning Act 1990 – Section 257**

#### **Footpaths and bridleways affected by development: orders by other authorities**

- (1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out –
  - (a) in accordance with planning permission granted under Part III, or
  - (b) by a government department.
- (2) An order under this section may, if the component authority are satisfied that it should do so, provide –
  - (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
  - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement, provision is made by the order;
  - (c) not included;
  - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) An order may be under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.
- (4) In this section “competent authority” means –
  - (a) in the case of development authorised by a planning permission, the local permission granted by the Secretary of State, who would have had power to grant it; andin the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application on an application in respect of the development in question if such an application had fallen to be made.

### **DOE Circular 2/93, Annex C, para. 23**

If it was right to grant planning permission, there must be a good reason to decide that a public path order that would permit its implementation should not be made or confirmed.

**DOE Circular 2/93, Annex D, para. 4**

“Use of estate roads should be avoided wherever possible and preference given to use of made-up estate paths through landscaped or open space away from vehicular traffic.”

**DOE Circular 2/93, Annex D, para. 5**

“The grant of planning permission does not entitle a developer to obstruct a public right of way. Development, in so far as it affects a public right of way, should not be started and the public right of way should be kept open for public use, until the new order has come into effect.”

**Planning Policy Guidance Note 7 (The Countryside and the Rural Economy), para. 2.14**

Planners should account for the effect that a development would have on public rights of way because footpaths and bridleways increase opportunities to enjoy the countryside.

**Planning Policy Guidance Note 17**

The Local Plan should increase open space and opportunities for recreation and enhance the network of public rights of way.

**Wildlife and Countryside Act 1981 – Section 53**

- (2) As regards every definitive map and statement, the surveying authority shall –
  - (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
  - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them requisite in consequence of the occurrence of that event.
- (3) The events referred to in subsection (2) are as follows –
  - (a) the coming into operation of any enactment or instrument, or any other event, whereby –
    - (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
    - (ii) a highway shown or required to be shown in the map and statement of a particular description has ceased to be a highway



of that description; or

- (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.
- (5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.

## Appendix Five

### Public Path Orders – Consultees

- Hazel Armstrong, British Horse Society.
- Byways and Bridleways Trust.
- Open Spaces Society.
- Auto Cycle Union.
- Cyclists' Touring Club.
- Ramblers' Association.
- British Driving Society
- British Horse Society.
- Kevin Dowell, Footpath Officer, Scunthorpe & District Group, Ramblers' Association.
- Mr A G Parker, Ramblers' Association.
- Mr C Padley, Lincolnshire Fieldpaths Association.
- Gerry Blythe, North East Midlands Branch, Association of Motor Clubs.
- Paul Learoyd, Director, Lincolnshire Wildlife Trust.
- Mark Drust, Performance and Partnerships, Neighbourhood and Environment, Church Square House **(Email)**
- Caroline Ellis, National Farmers' Union.
- Mr P Tame, National Farmers' Union.
- Country Land and Business Association.
- National Grid Plant Protection, National Grid, Block 1, Brick Kiln Street, Hinckley, LE10 0NA .
- BT Notice Handling Centre, PP 404B, Telecom House, Trinity Street, Hanley, Stoke on Trent, ST1 5ND (Tel. 01782 288088/fax. 01782 204846)
- 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