Report of the Director of Places

Agenda Item No: 7
Meeting:

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

RESTRICTED BYWAY 76, HAXEY (AKA CARR LANE, LOW BURNHAM)

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To decide what stance to adopt in referring two definitive map modification orders to the Secretary of State for the Environment, Food and Rural Affairs.

2. BACKGROUND INFORMATION

2.1 On 3 June 2015, we made two orders modifying the Isle of Axholme definitive map and statement. Both related to Carr Lane, Low Burnham. One was to add a restricted byway between the A161 and Public Footpath 76 (see Appendix 1). The other was to upgrade Public Footpath 76 to restricted byway (see Appendix 2). The Director of Places approved the making of the orders on 3 February 2015. His report details the reasons for making the orders, what a restricted byway is and so on (see Appendix 3).

2.2 We published notice of the orders' making on 23 July 2015. This resulted in five duly lodged objections. These were effectively two sets of objections, as is, there were two identical letters and three identical letters, albeit each lodged under different names. The former related to the order to upgrade only; the latter to both (see Appendix 4).

2.3 The two sets of objectors have subsequently offered to withdraw, but on two conditions: first, the order to upgrade terminate at the disused railway, not at Point C; and secondly, the first 75 metres from the A161 – order to add – be the physical width, not thirty feet (see Appendix 5).

2.4 We are required to refer orders to the Secretary of State for the Environment, Food and Rural Affairs (the Secretary of State) if they are duly opposed. We can, however, ask the Secretary of State to make modifications if we feel these are evidentially merited.

3. OPTIONS FOR CONSIDERATION

3.1 To ask the Secretary of State to confirm the orders (1) as made or (2) subject to the modifications that would satisfy the objectors.

4. ANALYSIS OF OPTIONS

4.1 Paragraph 4.2 of the report of the Director of Places states the following about the point at which Public Footpath 76 turns south: *"[this] is ... at the outer edge of the deposited plan's demarcated corridor".* On closer examination, however, this is not in fact so. Rather, the outer edge coincides more closely with the western flank of the disused railway: that is, a point further east. The "public highway" it is evidence of, must logically have led to that point from what is nowadays the A161; but beyond the disused railway, it is not helpful in determining a western terminus. This means that the Point C terminus is arbitrary. It is therefore unsubstantiated because on the Finance Act map the lane is uncoloured beyond this point; indeed, beyond where the lane divides into two culs-de-sac. Officers submit, therefore, that the order map should show one of two things: termination at the disused railway or where the uncoloured lengths end. Arguably, the former is far easier to justify. It would also meet the objectors' demands. Moreover, we can still make a further order if we ever discover new evidence to that effect.

4.2 The inclosure award prescribes to Burnham Lane Road a width of thirty feet. Burnham Lane Road corresponds mostly with today's Carr Lane. Where it does not is over the initial length leading from the A161. This is because the award describes Burnham Lane Road as "beginning at the west end of an ancient lane". Officers think the latter was along the southern boundary of what was the Plough Inn and is nowadays Plough Cottage. This is a length of 75 metres. The width over this length therefore would be the physical width, not the inclosure one. This varies between four and 4.5 metres. Historical Ordnance Survey maps show the width as being as it is now in the nineteenth century. Arguably then the physical width would be a justifiable one. The objectors have stated in writing that they would withdraw if the Secretary of State modified the order-to-add accordingly.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING)

5.1 Financial and staffing

5.1.1 The Environment Team's existing budget would cover all costs. If the objectors withdraw, as promised, these will amount largely to staff time only. If the objectors do not withdraw (e.g. the Secretary of State refuses to modify the order or orders as requested), arbitration would be by one of three means: written representations, hearing or inquiry. But the case is a straightforward one. No outside legal help should be needed. Legal Services could be called upon though in the event of an inquiry. But even with an inquiry, hire of a venue for a day is likely to be less than £100.00. If we have to advertise confirmation, this would cost around £250.00.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 Not applicable.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

7.1 When advertised, we served notice on all relevant parties, as required. We received no objections other than those referred to above.

8. RECOMMENDATIONS

8.1 It is recommended that we send both orders to the Secretary of State for the Environment, Food and Rural Affairs for confirmation; furthermore, that we request she modify the orders thus: (1) the order-to-upgrade terminate on the western flank of the disused railway, not where Public Footpath 76 heads south; and (2) the first 75 metres of the order-to-add from the A161 be the physical one (between four and 4.5 metres), not thirty feet.

8.2 It is recommended further that we cooperate fully in the Secretary of State's chosen means of arbitration.

DIRECTOR OF PLACES

Church Square House
30-40 High Street
SCUNTHORPE
North Lincolnshire
DN15 6NL
Author: Colin Wilkinson
Date: 24 November 2015

Background Papers used in the preparation of this report: office file 25/76 held at Church Square House in digital format only

APPENDIX 1

Wildlife and Countryside Act 1981
Section 53

County of Lincoln – Parts of Lindsey (Glanford Brigg) Definitive Map and Statement

Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015(1)

NORTH LINCOLNSHIRE COUNCIL

Wildlife and Countryside Act 1981

County of Lincoln, Parts of Lindsey (Isle of Axholme), Definitive Map and Statement

"Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015(1)"

This order is made by North Lincolnshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the "County of Lincoln, Parts of Lindsey (Isle of Axholme)", definitive map and statement require modification in consequence of the occurrence of an event specified in section 53(3)(c)(i) – namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist 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, a restricted byway or, subject to section 54A, a byway open to all traffic – of the Act.

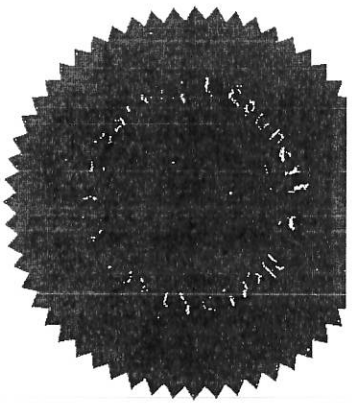
The authority have consulted every local authority whose area includes the land to which the order relates. North Lincolnshire Council hereby order that:

1. For the purposes of this order the relevant date is 28 May 2015.

2. The "County of Lincoln, Parts of Lindsey (Isle of Axholme)", definitive map and statement shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the order.

3. This order shall take effect on the date it is confirmed and may be cited as the "Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015(1)".

The COMMON SEAL of
NORTH LINCOLNSHIRE COUNCIL
was hereunto affixed
in the presence of:



(authorised signatory)

Dated: 3rd June 2015

Seal Number: 7846

SCHEDULE

PART I

Modification of Definitive Map

Description of path or way to be added

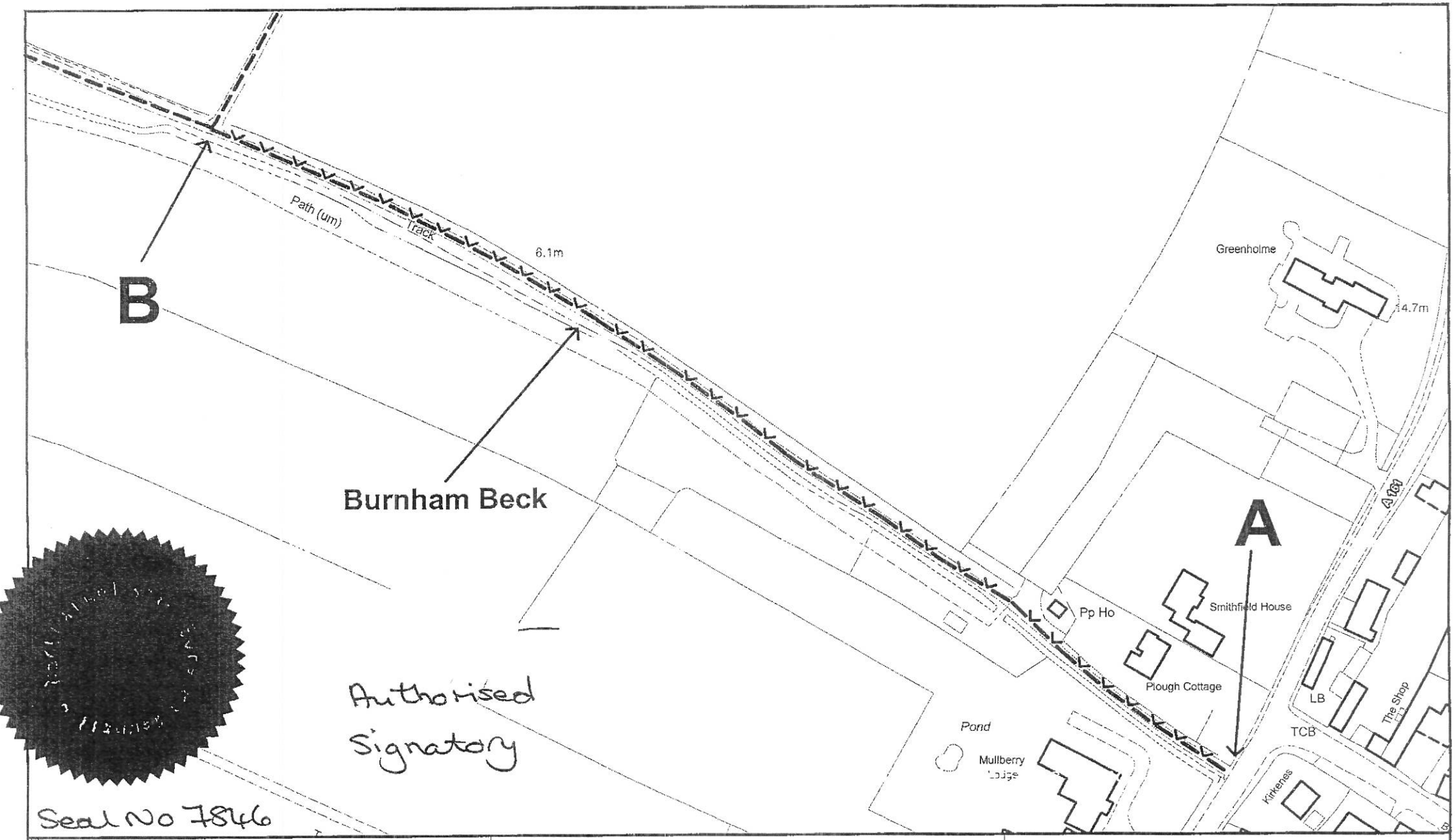
A – B, as indicated on the map: a 400-metre-long restricted byway of a width of 9.144 metres commencing on the A161 at Low Burnham at grid reference SE77940219 and proceeding in a north-westerly direction over an established track between Burnham Beck and Plough Cottage, thence continuing along said track adjacent to the northern bank of Burnham Beck to its junction with Public Footpath 76 at grid reference SE77620240.

PART II

Modification of Definitive Statement

Variation of particulars of path or way

A 400-metre-long restricted byway of a width of 9.144 metres commencing on the A161 at Low Burnham at grid reference SE77940219 and proceeding in a westerly direction over an established track between Burnham Beck and Plough Cottage, thence continuing along said track adjacent to the northern bank of Burnham Beck to its junction with Public Footpath 76 at grid reference SE77620240.



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Title: Haxey RB76	
Drawing No:	Version: 1
Drawn by: Colin Wilkinson	Date: 28/05/2015
Scale @A4 1:1680	

NORTH LINCOLNSHIRE COUNCIL
www.northlincs.gov.uk

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

APPENDIX 2

Wildlife and Countryside Act 1981
Section 53

County of Lincoln – Parts of Lindsey (Glanford Brigg) Definitive Map and Statement

Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015(2)

NORTH LINCOLNSHIRE COUNCIL

Wildlife and Countryside Act 1981

County of Lincoln, Parts of Lindsey (Isle of Axholme), Definitive Map and Statement

"Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015(2)"

This order is made by North Lincolnshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the "County of Lincoln, Parts of Lindsey (Isle of Axholme)" definitive map and statement require modification in consequence of the occurrence of an event specified in section 53(3)(c)(ii) – namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description – of the Act.

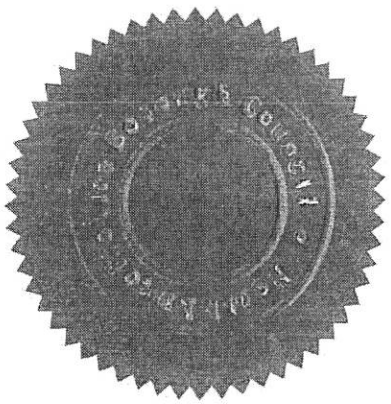
The authority have consulted every local authority whose area includes the land to which the order relates. North Lincolnshire Council hereby order that:

1. For the purposes of this order the relevant date is 28 May 2015.

2. The "County of Lincoln, Parts of Lindsey (Isle of Axholme)" definitive map and statement shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the order.

3. This order shall take effect on the date it is confirmed and may be cited as the "Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015(2)".

The COMMON SEAL of
NORTH LINCOLNSHIRE COUNCIL
was hereunto affixed
in the presence of:



(authorised signatory)

Dated: 3rd June 2015

Seal Number: 7847

SCHEDULE

PART I

Modification of Definitive Map

Description of path or way to be upgraded

A – B, as indicated on the map: a 495-metre-long restricted byway of a width of 9.144 metres commencing at its junction with Public Footpath 76 at grid reference SE77620240 and proceeding westwards over an established track initially adjacent to the northern bank of Burnham Beck but soon veering away from the latter, slightly at first and then progressively more so, to become divided from the beck by first a small paddock, then a larger field and then a wood till its junction with Public Bridleway 119, this being the disused railway immediately beyond said wood, at grid reference SE77160254.

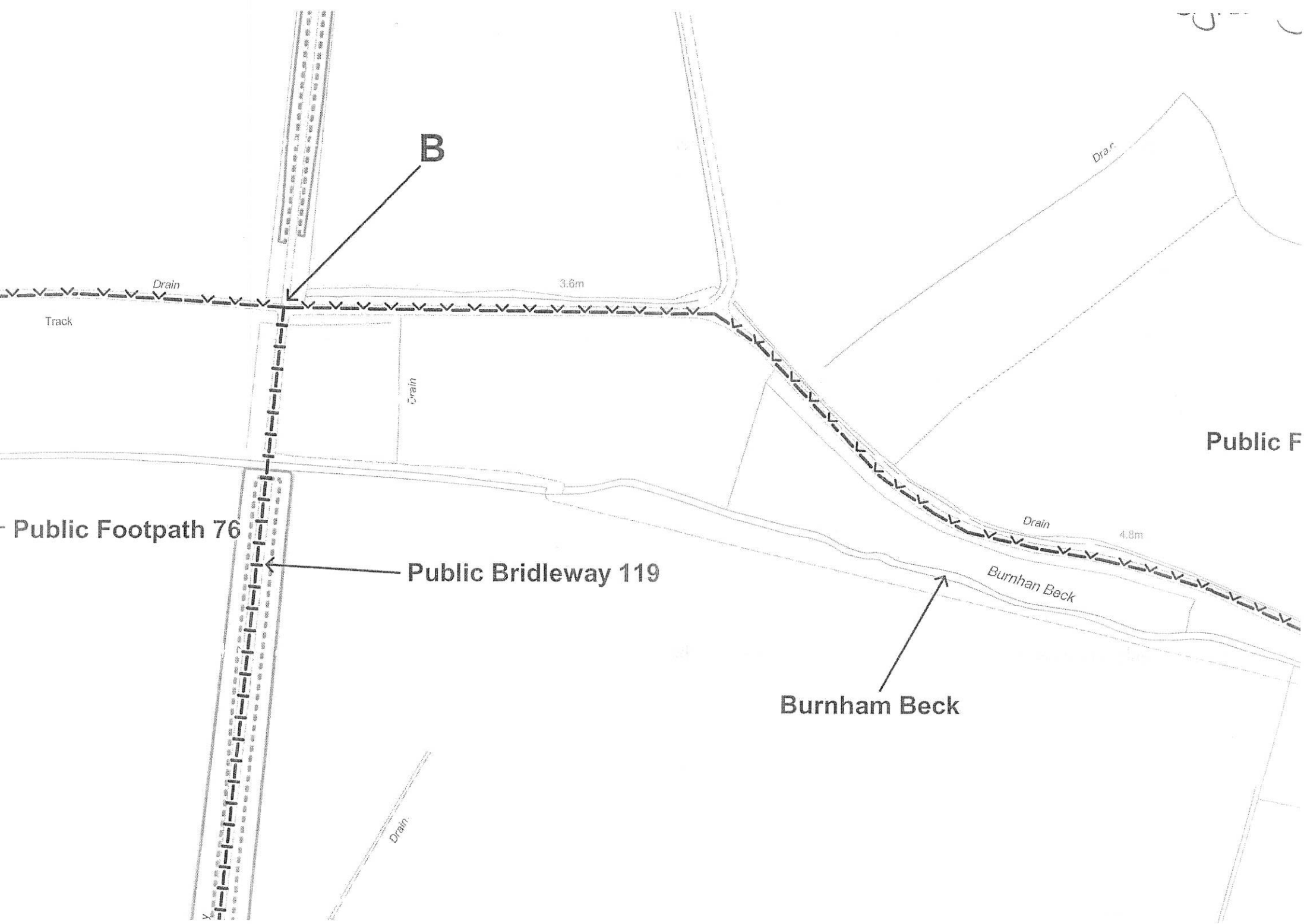
B – C, as indicated on the map: a 135-metre-long restricted byway of a width of 9.144 metres commencing at its junction with Public Bridleway 119, that is the disused railway, at grid reference SE77160254 and proceeding in a westerly direction over an established track parallel to Burnham Beck, being divided from the latter by a single field, to its junction with Public Footpath 76 at grid reference SE77030255.

PART II

Modification of Definitive Statement

Variation of particulars of path or way

A 630-metre-long restricted byway of a width of 9.144 metres commencing at its junction with Public Footpath 76 at grid reference SE77620240 and proceeding westwards over an established track initially adjacent to the northern bank of Burnham Beck but soon veering away from the latter, slightly at first and then progressively more so, to become divided from the beck by first a small paddock, then a larger field and then a wood till its junction with Public Bridleway 119, this being the disused railway immediately beyond said wood, at grid reference SE77160254; thence proceeding in a westerly direction over an established track parallel to Burnham Beck, being divided from the latter by a single field, to its junction with Public Footpath 76 at grid reference SE77030255.


B
Drain
Track
3.6m
Drain
Drain
Public F
Public Footpath 76
Public Bridleway 119
Drain
4.8m
Burnhan Beck
Burnham Beck
Drain

APPENDIX 3

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4 - FEB 2015

PUBLIC RIGHTS OF WAY – AUTHORITY TO MAKE ORDER

NORTH LINCOLNSHIRE COUNCIL

DIRECTOR OF PLACES

RESTRICTED BYWAY, CARR LANE, LOW BURNHAM

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 Officers have discovered evidence about the status of Carr Lane in Low Burnham. This suggests that Carr Lane is a restricted byway.

1.2 We have a duty to keep the definitive map and statement under review.

2. BACKGROUND INFORMATION

2.1 Carr Lane leads west out of Low Burnham from the A161. It connects the A161 with the bridleway along the disused railway. It is a cul-de-sac other than for the bridleway. The latter leads south from Carr Lane to Low Street, Haxey. This is a distance of about 3,000 metres. The disused railway is also known as The Greenway. We have been trying to create as much access along this as possible to create an alternative to the A161 for non-motorised users. If Carr Lane were a public right of way too, it would provide a valuable link. Carr Lane itself runs for about 900 metres between the A161 and the disused railway. About 500 metres of this is already a public footpath, number 76, which runs between Haxey Carr and the A161. It joins the latter about halfway between Low Burnham and Epworth (see Appendices 1 and 2).

2.2 The evidence we have discovered consists of the following items: (1) the Finance Act 1910 map; (2) the Great Northern Railway (Isle of Axholme) Book of Reference and Deposited Plan 1846; (3) the Isle of Axholme Inclosure Award 1803 and (4) the Isle of Axholme pre-inclosure map (see Appendix 3).

2.3 Under the 1910 Act, the Valuation Office surveyed all private land. This was in preparation for the levying of an increment value duty. They marked the boundaries of the affected land on 1:2,500-scale Ordnance Survey maps using thick coloured lines. We can therefore deduce that uncoloured land was public; furthermore, that uncoloured roads, lanes and tracks were possibly highways. This hypothesis has been upheld by the courts.

2.4 The Isle of Axholme extension of the Great Northern Railway was never built. The railway company did, however, produce a book of

reference. This describes what we know as Carr Lane as being a public highway. (The disused railway was the Axholme Joint Railway, a later venture.)

2.5 What we know as Carr Lane was set out under the Isle of Axholme Inclosure Award 1803. It was described therein as "one private carriage and drift road of the breadth of thirty feet called Burnham Lane Road". The Planning Inspectorate advise that in the case of awards subject to the General Inclosure Act 1801, *private* means not for use by the public. However, the 1803 Award has its own private Act, which was passed in 1795. The 1801 Act's powers and provisions apply to local Acts passed after 2 July 1801 only. This leaves open the prospect that the way was public at inclosure. It also gives us a legally stipulated width of thirty feet.

2.6 Although the way was set out under the inclosure award, it can be seen on the pre-inclosure map. We can deduce from this that the setting out was a legal technicality. The way is clearly a very old one.

2.7 We must consider whether Carr Lane subsists or there is a reasonable allegation that it subsists as a public right of way. If we conclude from the evidence that either proposition applies, we have a duty to modify the definitive map and statement accordingly. We must also then decide what type of public right of way it is. The evidence suggests a way for vehicles. The award mentions carriages and thirty feet would be consistent with a vehicular highway. Also, the railway book of reference describes the way as it describes other ways that are highways for vehicles today (for example, the A161). A road excluded from taxation on a Finance Act map is unlikely to be a footpath. The courts have concluded as such as recently as 2012. It could though have been a bridleway. Or being a cul-de-sac, it could even have been an occupation road only. (Please note, there is nothing inconsistent in law with a highway being a dead end. The bridleway it links with today did not then exist. But if it was a highway, the legal maxim is "once a highway, always a highway".) All we can do is assess the evidence in its totality. On balance, this appears to indicate a right of way for all traffic.

2.8 However, all public rights of way for mechanically propelled vehicles had to be recorded on a definitive map by 2 May 2006; otherwise, they were automatically extinguished. This was under section 67 of the Natural Environment and Rural Communities Act 2006. The Act allowed certain exemptions. Carr Lane was not, though, so recorded. Nor do any of the exemptions appear to apply. Had it not been for the 2006 Act, the appropriate status would be byway open to all traffic. The Planning Inspectorate advise on what a byway open to all traffic is. Based on case law, they say it is a carriage road with the character of a way used mainly by walkers and horse riders. Being a rough track, it is safe to say that this adequately describes Carr Lane. But because the 2006 Act means it cannot be a byway open to all traffic, restricted byway is the next classification down. This is a right of way for all traffic other than mechanically propelled vehicles.

2.9 The recording of Carr Lane as a restricted byway would therefore prohibit its use with vehicles by the public. Driving on it would henceforth be an offence under the Road Traffic Act 1988. But motorists with a private right of way would be unaffected. This could include, for example, access to land. It is possible some access to land with vehicles depended on such use by the public. In those cases, the 2006 Act automatically created an ad hoc private right of way.

2.10 The definitive map is conclusive evidence as to existence, line and status of the public rights of way it shows. The statement is its accompanying written schedule. It contains detail the map could not show, such as width.

3. OPTIONS FOR CONSIDERATION

3.1 The options are threefold: (1) to make an order adding Carr Lane to the definitive map and statement as a restricted byway; (2) to make an order adding it as another type of public right of way; or (3) not to make an order.

4. ANALYSIS OF OPTIONS

4.1 We must publish notice of any order we make. And if we were to receive objections or representations, these would prevent us from confirming the order ourselves. We should have to refer the order to the Secretary of State for the Environment, Food and Rural Affairs instead.

4.2 We would, in fact, need to make two orders. This is because part of Carr Lane is a public footpath already. Orders made to modify a definitive map must relate to specified events. One of these concerns situations where there is no recorded way at present; another where the status of an existing way requires change. We would make the orders concurrently. Then if one were contested but the other not, we would still refer both to the Secretary of State.

4.2 We should also have to decide whether to include Carr Lane west of the disused railway and, if so, how much. The award includes a track that leads off to the north that no longer exists physically. But we should not rely on the railway book of reference for this now non-existent length. It is outside the corridor indicated on the deposited plan. Also, it is on the opposite side of the railway from the A161. One would expect Carr Lane to be public from the A161 to where the deposited plan shows where the railway would have been; but not necessarily beyond. A compromise could therefore be to include up to the point at which Public Footpath 76 exits the track southwards. Being a public right of way already, this is less likely to be contentious. It is also at the outer edge of the deposited plan's demarcated corridor.

4.3 The definitive map is concerned with recording where the public can travel and how. It does not identify who is responsible for the maintenance of what it shows. It is likely, however, that if Carr Lane were a restricted byway, it would be a publicly maintainable one. We already maintain the public footpath. And a carriageway that was older than 1836 would be ours to maintain by virtue of common law. Also, where liability is in dispute, it is for the highway authority to disprove responsibility, not vice versa. However, Carr Lane is a rough track. Its maintenance should not be expensive.

4.4 If we made orders for a status other than restricted byway, we should need to be able to justify this. Officers do not believe we can, for the reasons outlined above. Similarly, if we declined to make orders, we should need to be able to argue that the evidence against restricted byway was stronger than that for. At present, though, it is unclear what form the evidence against would take.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING)

5.1 Financial

5.1.1 We can make the orders from the Environment and Sustainability Team's existing budget. Consultation and the placing of notices on site and in the press should not exceed £1,000.

5.1.2 If we receive neither objections nor representations, or if any so lodged are withdrawn, we can confirm the orders ourselves. This should incur a further £1,000 at most.

5.1.3 But if someone duly contests the orders, the power of confirmation lies with the Secretary of State. Arbitration would be by one of three means: written representations, hearing or inquiry. Written representations would incur the cost of staff time only; a hearing or an inquiry, the cost of hiring a hall, too. On occasion, an objector will engage a barrister. This, though, is rare. Previously, however, we have in such situations engaged a barrister as well. This would be on the advice of Legal Services. This could typically increase our costs by a further £3,000. We should, though, have had an indication that this was likely to happen before the orders were sent to the Secretary of State. And before any such referral, a further report would have been brought before Planning Committee. This would have been to establish our stance in relation to the objections.

5.2 Staffing

5.2.1 We require only the Environment and Sustainability Team's existing complement for the making of the orders. We might request Legal Services' assistance in the event of an inquiry.

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

6.1 There are no other implications.

7. OUTCOMES OF CONSULTATION

7.1 Officers have consulted the local ward members on the issues contained in this paper. They raised no concerns with the recommended course of action.

7.2 Haxey Parish Council were consulted too. They too raised no concerns with the recommended course of action.

7.3 We shall consult user and environmental bodies, owners and occupiers, farming organisations and utility companies if we proceed with making orders.

8. RECOMMENDATIONS OF INVESTIGATING OFFICER

8.1 It is recommended approval be given to:

8.1.1 the making of two concurrent orders modifying the "County of Lincoln (Parts of Lindsey), Isle of Axholme" definitive map and statement, both with respect to Carr Lane, Low Burnham: one to upgrade Public Footpath 76 to a restricted byway; the other to add a restricted byway between Public Footpath 76 and the A161;

8.1.2 the confirmation of the two orders if both of these are unopposed; and

8.1.3 the referral of both orders to the Secretary of State for the Environment, Food and Rural Affairs if one or both are duly opposed;

8.1.4 but not before taking a further report to Planning Committee to establish a stance in the light of such objections.

9.0 DECISION

9.1 The recommendations of this report are:

(a) agreed ☑

(b) declined ☐

(c) deferred to Planning Committee ☐

9.2 Comments (if any)

I endorse the recommendations set out above:

Signed .....
Assistant Director – Technical and Environment Services

Authorised by.

Signed .....
Director of Places

Dated: 3.2.2015.

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

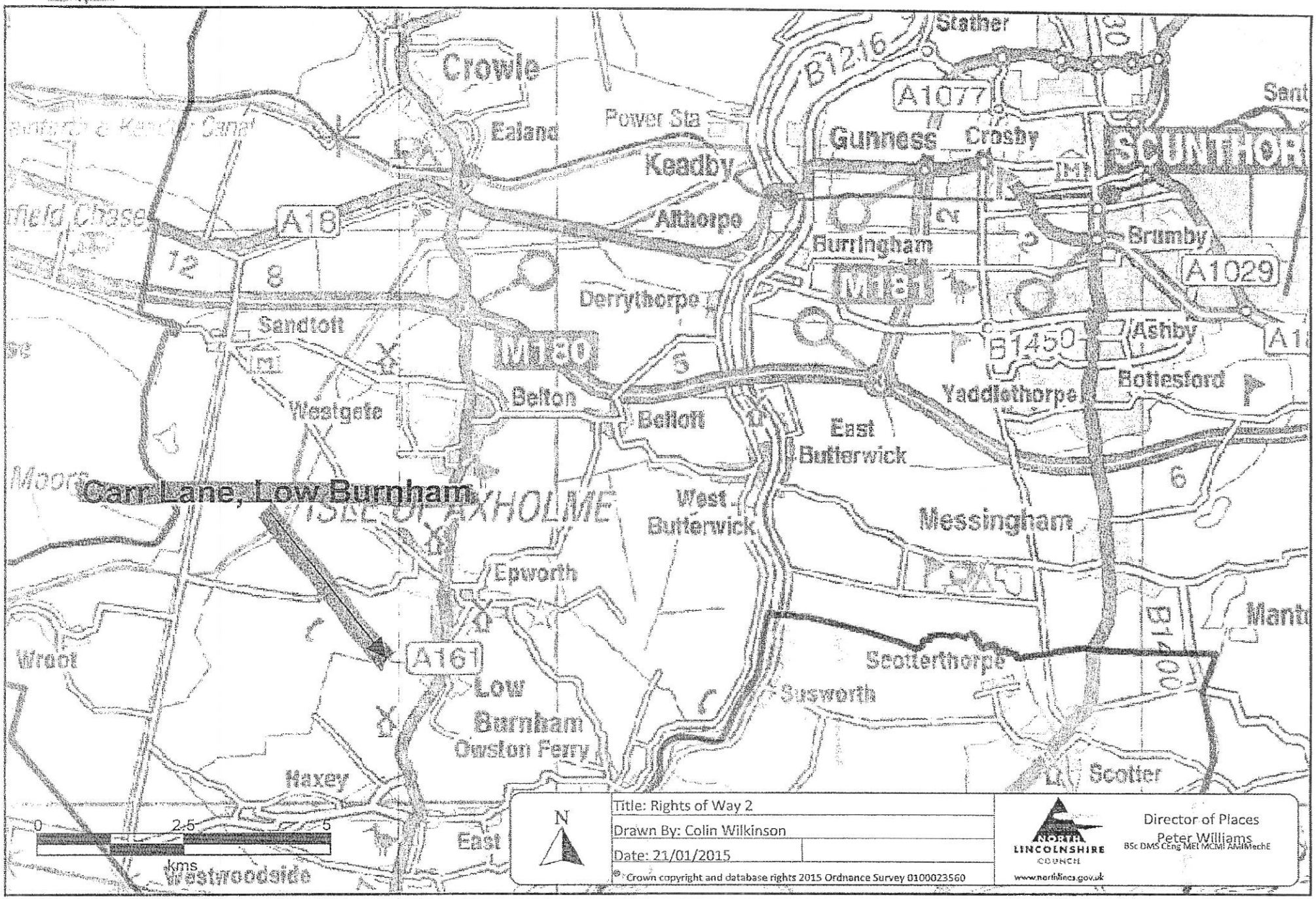
Author: Colin Wilkinson
Date: 21 January 2015

Background Papers used in the preparation of this report: Office file "Restricted Byway 76, Haxey" stored electronically at Church Square House

Where appropriate the report has been seen and commented on by (√ or n/a)

Cabinet Member	Human Resources	Legal & Democratic	Finance	Property	IT	EMT
n/a	n/a	√	√	n/a	n/a	n/a

APPENDIX 1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Keadby
Althorpe
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Gunness
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SCUNTHORPE
Burringham
Brumby
A1029
A18
M180
Derrythorpe
Sandtoft
Belton
Belloft
Westgate
B1450
Ashby
Bottesford
Yaddlethorpe
East Butterwick
West Butterwick
Carr Lane, Low Burnham
ISLE OF AXHOLME
Messingham
Epworth
A161
Low Burnham
Owston Ferry
Wroot
Scotterthorpe
Susworth
Haxey
East Westwoodside
0
2.5
5
kms
N
Title: Rights of Way 2
Drawn By: Colin Wilkinson
Date: 21/01/2015
© Crown copyright and database rights 2015 Ordnance Survey 0100023560
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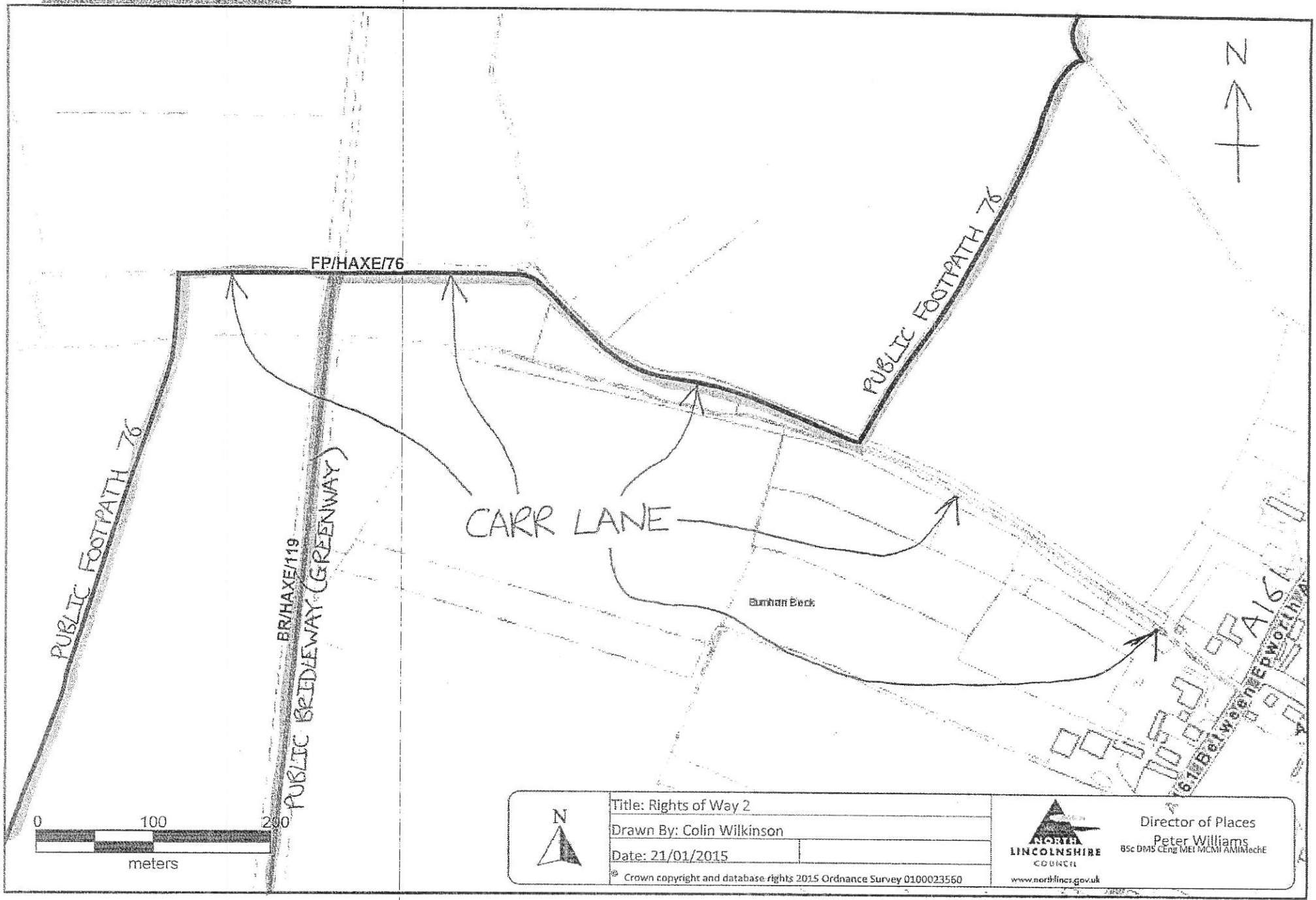
www.northlincs.gov.uk
Director of Places
Peter Williams
BSc DMS CEng MIET MCMI AMIMechE

APPENDIX 2


N
FP/HAXE/76
PUBLIC FOOTPATH 76
PUBLIC FOOTPATH 76
CARR LANE
BR/HAXE/119
PUBLIC BRIDLEWAY (GREENWAY)
Burnham Beck
A161
Between Epworth
0
100
200
meters
N
Title: Rights of Way 2
Drawn By: Colin Wilkinson
Date: 21/01/2015
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Director of Places
Peter Williams
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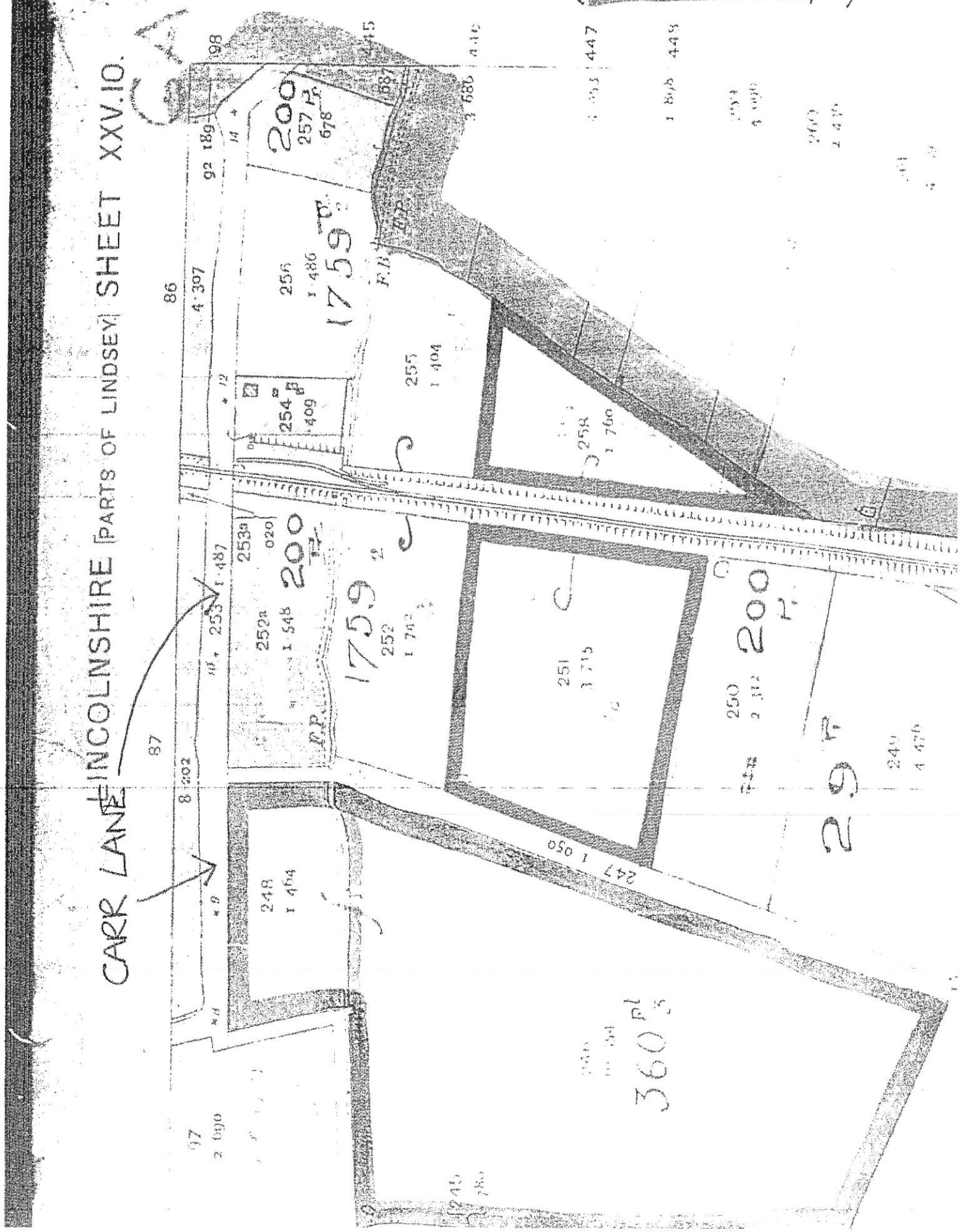
FINANCE ACT 1910 VALUATION MAP

([redacted])



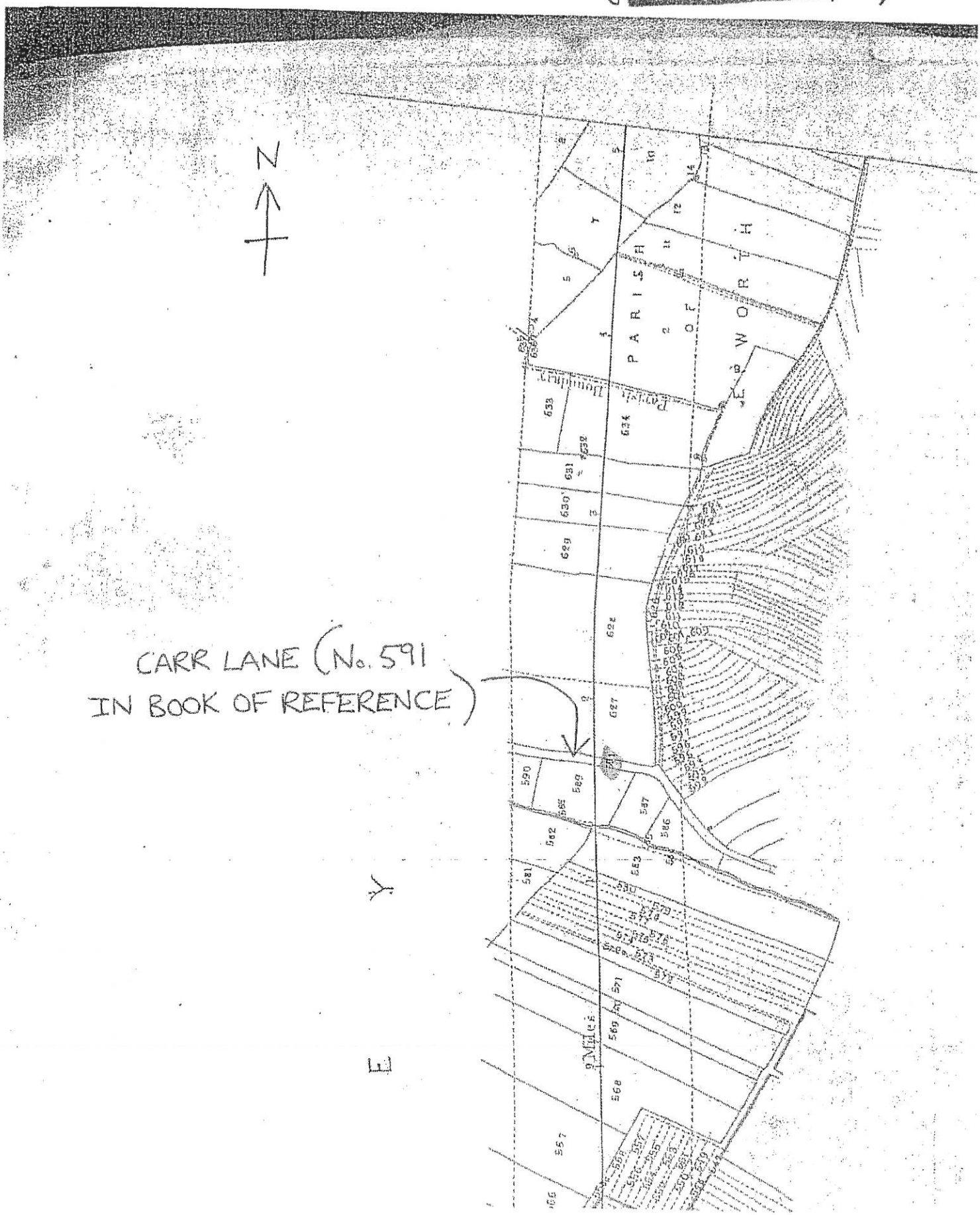
FROM GREAT NORTHERN RAILWAY (ISLE OF AXHOLME EXTENSION) BOOK OF REFERENCE 1846

(APPENDIX p12)

The Parish of HAXEY, in the Parts of Lindsey, in the County of Lincoln.—*Continued.*

Number on Plan.	Description of Property.	Owners, or Reputed Owners.	Lessees, or Reputed Lessees.	Occupiers.
[illegible]	Public Highway	Robert Kelsey, Surveyor of Private Roads and Drains in the Parish of Haxey; and Joseph Starkie and John Newborn, the younger, Bye-law Men of the Hamlet of Burnham		
592	Arable Land	Richard Dawson	.. .. ..	John Hatfield
593	Arable Land	John Standring	.. .. ..	In hand
594	Arable Land	Mary Cockin	.. .. ..	George Read
595	Arable Land and Road	John Jefferson	.. .. ..	In hand
596	Arable Land and Road	Richard Dawson	.. .. ..	John Hatfield
597	Arable Land and Road	Richard Maudson	.. .. ..	Thomas Smith
598	Arable Land and Road	William Ryder	.. .. ..	In hand
599	Arable Land and Road	William Darrand, the younger, and William Batty, Churchwardens, and George Fillingham, and George Thompson, Overseers of the Poor of the Parish of Haxey	.. .. ..	Francis Whitehead
600	Arable Land and Road	William Darrand, the younger, and William Batty, Churchwardens, and George Fillingham, and George Thompson, Overseers of the Poor of the Parish of Haxey	.. .. ..	Francis Whitehead
601	Arable Land and Road	William Darrand, the younger, and William Batty, Churchwardens, and George Fillingham and George Thompson, Overseers of the Poor of the Parish of Haxey	.. .. ..	Francis Whitehead
602	Arable Land and Road	Mary Cockin	.. .. ..	George Read
603	Arable Land and Road	Mary Cockin	.. .. ..	George Read
604	Arable Land and Road	Mary Cockin	.. .. ..	George Read
605	Arable Land and Road	Mary Cockin	.. .. ..	George Read
606	Arable Land and Road	Richard Dawson	.. .. ..	John Hatfield
607	Arable Land and Road	Richard Dawson	.. .. ..	John Hatfield
608	Clay Pit	Richard Dawson	.. .. ..	John Hatfield
609	Arable Land and Road	Richard Dawson	.. .. ..	John Hatfield

FROM GREAT NORTHERN RAILWAY (ISLE OF AXHOLME EXTENSION) DEPOSITED PLAN, 1846 (APPENDIX 7.2 p.3)



FROM ISLE OF AXHOLME INCLOSURE AWARD 1803

(APPENDIX 5 p 41)

One other publick Carriage Road of the breadth of forty feet called Sandhill Road beginning at Wroot Road at or near a Homestead belonging to Rebecca Snell at Park and thence extending in a southwestward direction over the late Commons to Doncaster Road

One other Public Carriage Road of the breadth of forty feet called Tindall Bank Road (otherwise the Particpants Road) beginning at the north west corner of Misterton new Inclosures and thence continued over the late Commons in its ancient course to and over the Main Drain to the east end of an ancient Lane leading to New Idle Bank

And one other Publick Carriage Road of the breadth of thirty feet called Haxey Field Road beginning at Doncaster Road and thence extending in a northward direction over the west side of ancient Inclosures belonging to the Trustees for the School of Haxey called Akeferry Closes and over the east side of another Close belonging to the said Trustees called Sandbed and continued in the same direction over Open Field Land belonging to the Trustees for Haxey Church to the publick Road in Haxey Sandbed Field which said last mentioned road is set out by us the last named Special Commissioners with the consent and approbation in writing of the said Trustees for the School of Haxey in lieu of and in exchange for so much Land added to the Allotments to which the said Trustees were intitled as is by us the last named Special Commissioners deemed to be equal in value and in full satisfaction for the Land taken up by the said Road

And we the said Thomas Stone James Dowland and Francis Raynes do further set out and appoint and hereby Award the following Private Roads and Ways as delineated in the said Plan in over and upon the Lands intended by the said Act to be divided and inclosed within the Parish of Haxey aforesaid of the respective breadths herein mentioned (that is to say)

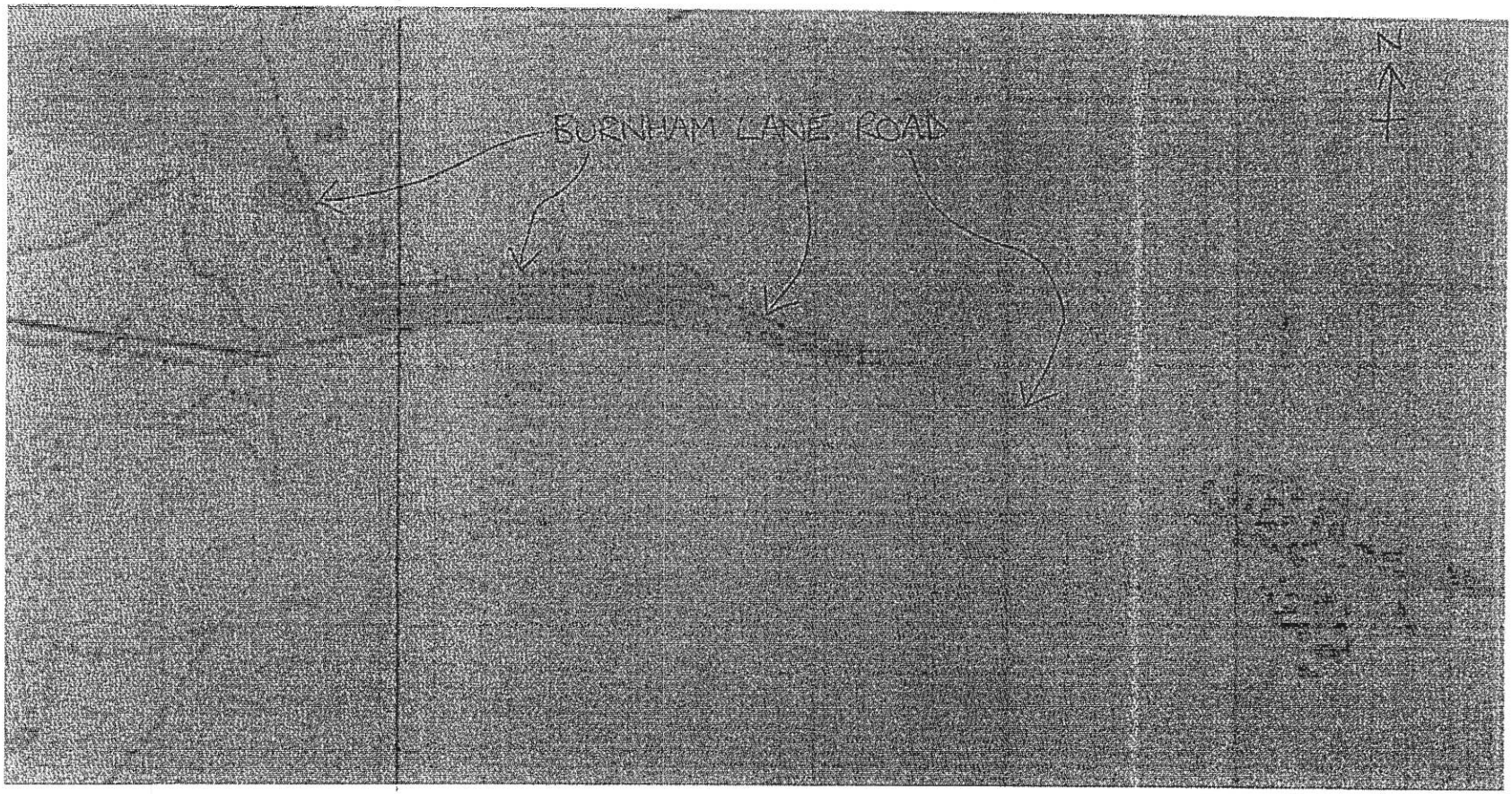
One Private Carriage and Drift Road of the breadth of thirty feet called Burnham Lane Road beginning at the west end of an ancient Lane in Low Burnham and thence extending in a westward direction over the late Commons on the south side of ancient Inclosures to the south west corner of an ancient Inclosure belonging to Mary Glew called Carr Close and thence in a northward direction on the west ends of other ancient Inclosures to an Allotment No.360 made to Alan Johnson's Trustees thence in the same direction on the west ends of other Ancient Inclosures in over and through the said Allotment made to the said Alan Johnsons Trustees and Allotments Nos.362 and 361 made to Samuel Morris to an Allotment No.363 made to John Henry Maw

One other Private Carriage and Drift Road of the breadth of sixteen feet called Skyers Road beginning at the last described Road at the north east corner of an Allotment No.365 made to John Henry Maw thence continued through the said Allotment and another Allotment No.364 made to the said John Henry Maw to the north east corner of an Ancient Inclosure called Skyers Close thence over the same Allotment No.364 on the west side of the same Close to an Ancient Inclosure called Skyers

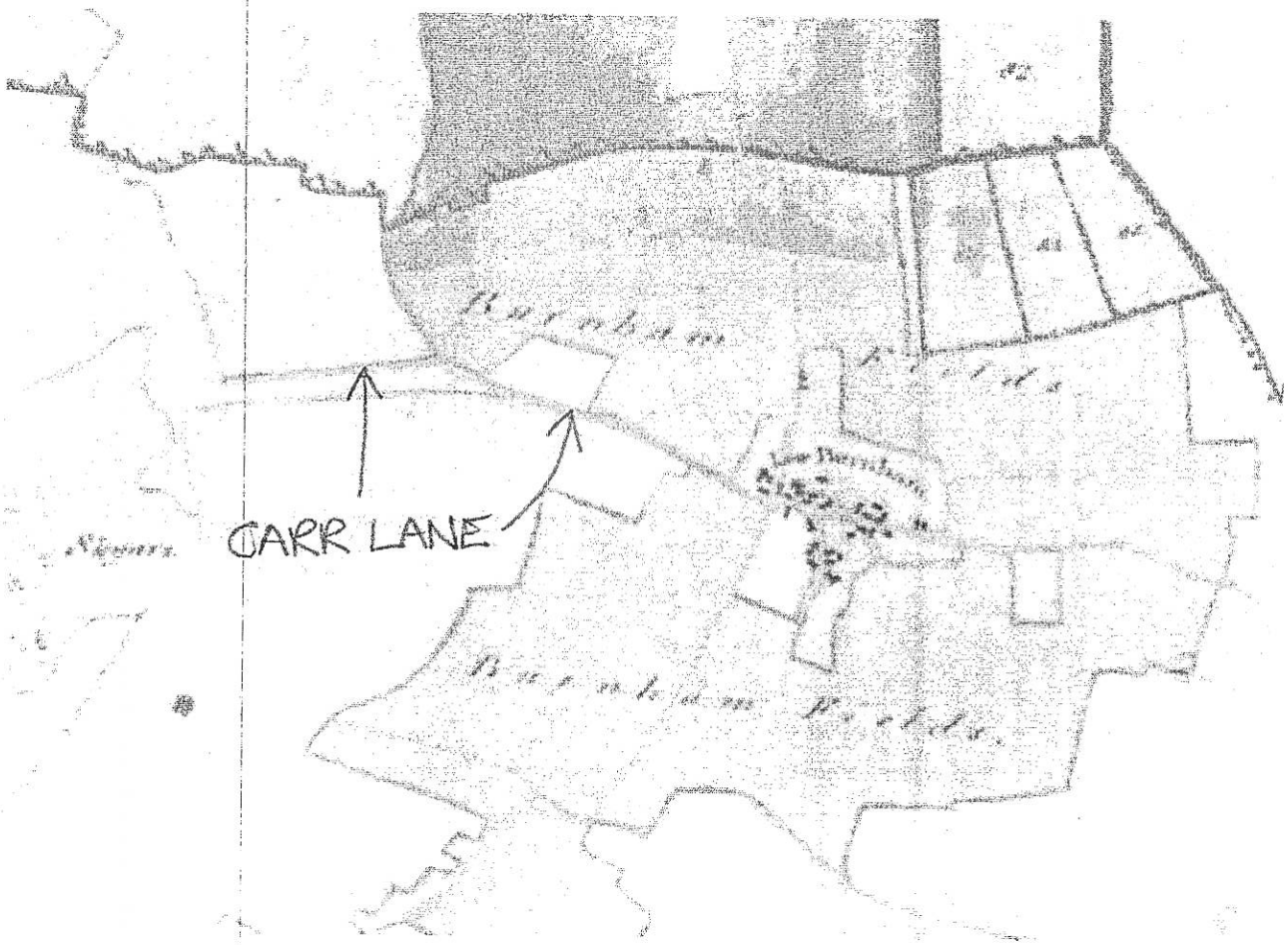
One other Private Carriage and Drift Road of the breadth of sixteen feet called Poors Road beginning at Burnham Lane Road and thence extending in a southward direction through the west end of an Allotment No.367 made to Mary Glew to an ancient Inclosure belonging to the Trustees for the Poor of Low Burnham

One other Private Carriage and Drift Road of the breadth of thirty feet called Turbary Road beginning at the west end of an

Isle of Axholme Inclosure Award Map



Extract from Isle of Axholme Pre-Inclosure Map 1795



APPENDIX 4

RECEIVED
02 SEP 2015

30th August,2015.

Dear Mr Wilkinson,

With reference to the "Definitive Map Modification (Restricted Byway 76,Haxey) Order 2015(1) and (2),I would like to raise the following points.

Regarding order (1);albeit that the section of Carr Lane between points A and B is mentioned in the Haxey Parish 1803 Awards as being 30 feet wide,it is now quite considerably reduced in size,this being the result of dredging work carried out by the Drainage Board to Burnham Beck,which runs parallel to the lane.

Order (2) states that the stretch of lane between points A and C is 9.144 metres wide,this contradicts the Definitive Map Modification Order 2000,which gives a variation of 3 metres and 4 metres in width.

Upgrading the track between points B and C to a restricted byway would encourage horse riders and cyclists to continue their journey West along this track,which is not a public right of way beyond point C,or to turn left in a Southerly direction at point C and travel on a public footpath.

With consideration to these facts,I wish to lodge my objection to this Order.

Yours sincerely,

The Director of Places,

c/o The Environment Team,

Church Square House,

Scunthorpe.

2nd September, 2015.

North Lincolnshire Council,
Director of Places,
c/o The Environment Team,
Church Square House,
Church Square,
PO Box 42,
Scunthorpe,
DN15 6XQ.

To whom it may concern.

RE Section 53 of the Wildlife & Countryside Act 1981. North Lincolnshire Council. County of Lincoln, Parts of Lindsey (Isle of Axhomle) Definitive Map & Statement.
"Definitive Map Modification (Restricted Byway 76, Haxey) Order 2015 (2)"

I wish to object to the above Order for the following reasons:-

1. This Order was not advertised in our local paper the Epworth Bells, but in a Scunthorpe newspaper which we did not see.
2. It would have been nice, as a land owner in the area, to have been consulted or notified in writing with regard to this possible Modification Order.
3. Point C will become a "dead end/cul-de-sac as a restricted byway.
4. The width of the access track.

ORDER 2.

1. Going back to 3rd January, 1997 when part of footpath 76 was deleted (part 1) and part added (part2) Definitive Map Modification Order 2000. It is clear in the description of this new footpath that the widths of Carr Lane were 3m and 4m at various points along the route. How is it today in this Modification Order 3rd June, 2015 that this same access track is now 9.144m in width? The access track having Burnham Beck running alongside it, mature overhanging trees, mature hedgerows and the pumping station creating permanent boundaries, which is not 9.144m in width.

2. The area I am most concerned about is B to C. The track is not 9.144m wide (as Mod Order 2000 states 3m/4m wide)

3. If B to C were to be become a restricted byway point C would become a "dead end"/cul-de-sac. Anyone walking from B to C then has a right to turn left (South) to travel along footpath 76 towards Haxey Carr. But anyone on horseback or wanting to use the restricted byway would not be able to travel west at point C as there is no public right of way. At point C they would not be allowed to turn left (South) and use the footpath 76 towards Haxey Carr. This creating being a dead end at C.

4. Point C travelling South along footpath 76 towards Haxey Carr has a Deposit of Statement and Plan Section 31(6) of the Highways Act 1980 in place, dedicating this private access track, having a local Low Burnham historic Mere known as "Double Dyke Mere" with footpath 76 running along it.

Please do not hesitate to contact me if you wish to discuss point C.

Yours faithfully,

Tel:- Email:-

APPENDIX 5

From: [redacted]
To: "colin.wilkinson@northlincs.gov.uk" <colin.wilkinson@northlincs.gov.uk>

Date: Wednesday, November 11, 2015 11:11AM
Subject: Definitive Map Modification (Restricted Byway76, Haxey) Order 2015 (2).

History: This message has been replied to.

Good morning Mr Wilkinson,

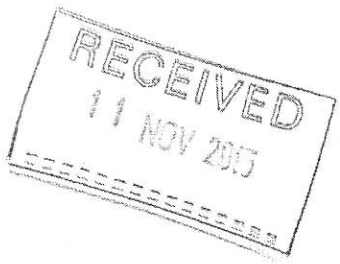
Thank you for your letter dated the 20th October, 2015 the contents have been noted.

We understand at the western end of the restricted byway that a cul-de-sac will be created. It makes sense for the cul-de-sac to be terminated at the disused railway. Then, if in the future you open up the disused railway (towards Epworth) the users will be able to go down Carr Lane and turn left to Haxey or right to Epworth. This makes better sense.

Yes, we would both withdraw our objection on the basis that :- North Lincolnshire Council were to request that the Secretary of State modify order number two to show the western terminus as being at the disused railway.

Please confirm that you have received this email.

Yours sincerely



9th November,2015.

Dear Mr Wilkinson,

Definitive Map Modification (Restricted Byway 76,Haxey) Order 2015(1) and (2).

I wish to thank you for your comprehensive letter of the 20th October,2015 in which you state that it may be possible for North Lincolnshire Council to request that the Secretary of State modify the above order to show the western terminus of the order route as being at the existing disused railway. This action would satisfy my concerns on this particular matter.

Regarding the issue of the first 75 metres of Carr Lane,leading west from the A161,as not being proven to be 30 feet wide according to information gleaned from the Haxey Parish 1803 Awards,I would be pleased to accept your offer of amending the order to the physical width of the track.

If these adjustments were acted on,then I would have no reservations concerning this order.

Yours sincerely,

Senior Rights of Way Officer,

The Environment Team,

Church Square House,

Scunthorpe.