

**NORTH LINCOLNSHIRE COUNCIL**

**REGENERATION  
CABINET MEMBER**

**VOLUNTARY DESIGNATION OF A VILLAGE GREEN  
OFF STATION ROAD, BRIGG**

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

- 1.1 To confirm the proposal to apply to voluntary designate land known as 'The Paddock', as a village green.
- 1.2 To consider how to register a village green.
- 1.3 To consider accepting the withdrawal of two applications to register land as village greens. These were lodged at the same time as 'The Paddock'.
- 1.4 To consider the creation of a public footpath.

**2. BACKGROUND INFORMATION**

- 2.1 The Council received three applications to register land as village greens, in 2010.
- 2.2 The applications relate to land known as 'The Paddock' (Appendix 1), 'The Old Coal Yard' (Appendix 2), and 'The Old Railway Sidings' (Appendix 3).
- 2.3 In October 2010, the former Cabinet Member for Regeneration, Marketing and Strategic Finance agreed that the Council should formally object to the application in its capacity as landowner (minute 106 of 4 October 2010 refers).
- 2.4 This report is based on the assumption that the Council will now withdraw their objection to the registration of 'The Paddock', as a village green.
- 2.5 Once the objection is withdrawn, the Council may voluntarily designate 'The Paddock'. If the Council chose to do this, the applicant has agreed in writing to withdraw his remaining applications.

- 2.6 The applicant will withdraw his remaining two applications on the basis that a public footpath is dedicated as indicated at Appendix 4.
- 2.7 If an area is designated as a green, developments are not permitted on the land. Land can be substituted in certain circumstances (see below at 6.1.3).

### **3. OPTIONS FOR CONSIDERATION**

- 3.1 Option 1 - To approve the voluntary designation of a village green at land off Station Road, Brigg, known as 'The Paddock'. And to accept the withdrawal of the remaining two applications, with the dedication of a public footpath. This is the preferred option.
- 3.2 Option 2 - To refuse the application to voluntarily dedicate the area of land known as 'The Paddock', as a village green, but accept the withdrawal of the two remaining applications.
- 3.3 Option 3 - To refuse the application to voluntarily dedicate the area of land known as 'The Paddock', as a village green, and to refuse to accept the withdrawal of the two remaining applications.
- 3.4 Option 4 - To approve the voluntary designation of the village green, but refuse the withdrawal of the two remaining applications.
- 3.5 Option 5 - To approve the voluntary designation of the green, accept the withdrawal of the remaining applications, but refuse to dedicate a public footpath.

### **4. ANALYSIS OF OPTIONS**

- 4.1 Option 1 – If approval is given to the voluntary dedication of the green the remaining applications will be withdrawn. This will bring the matter to an end. The voluntary designation will see that the area remains for the enjoyment by local people. The withdrawal of the other two applications will mean that the Council will not have to take any further decision.
- 4.2 Option 2 - The applicant will not withdraw the two remaining applications if the village green designation is refused. All three of the applications will then have to be determined.
- 4.3 Option 3 - An inquiry may be required to assist in determining the applications if both proposals are rejected.
- 4.4 Option 4 - If the withdrawal of the applications are not accepted then they will have to be determined. If an objection remains we will have to go to an inquiry to assist in their determination.

4.5 Option 5 - If the dedication of a public footpath is not agreed, then the applicant will not withdraw his remaining applications.

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

### 5.1 Financial

5.1.1 The matter will need to go to an informal inquiry if the objection remains, and the voluntary registration is not approved.

5.1.2 The Council will have to appoint and pay for a barrister if the matter goes to an inquiry.

### 5.2 Staffing

5.2.1 From within individual teams, but legal assistance will be required.

### 5.3 Property

5.3.1 The registration of the land as a village green will mean the loss of land for potential development. Any development on the surrounding area will have to accommodate a public footpath.

### 5.4 IT

5.4.1 None.

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

### 6.1 Statutory Risk

6.1.1 The law surrounding village greens is governed by the Commons Registration Act 1965, and the Commons Act 2006.

6.1.2 Section 15(8) of the Commons Act enables a landowner to voluntarily designate land as a green.

6.1.3 Section 16 of the Commons Act lays out the criteria for deregistration. Appendix 5 contains the appropriate sections of the Commons Act 2006.

### 6.2 Environmental, Diversity, Section 17 - Crime and Disorder and Other

6.2.1 The designation of a village green will ensure that local people are able to enjoy access to an unspoilt area of land.

## **7. OUTCOMES OF CONSULTATION**

7.1 Brigg Town council were previously consulted and support the dedication of 'The Paddock' as a green.

## **8. RECOMMENDATIONS**

8.1 To accept the application to voluntarily register The Paddock as a green.

8.2 To accept the withdrawal of the two remaining applications.

8.3 To dedicate a public footpath as indicated at Appendix 4.

## **DIRECTOR OF PLACES**

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Date: 25 January 2013

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

- Minute 106 of the Cabinet Member for Regeneration, Marketing and Strategic Finance dated 4 October 2010.



Drawing Title: The Paddock

OS Grid Ref: TA00240691

Drawn by: NB

Scale: NOT TO SCALE

Date: 03/08/2010



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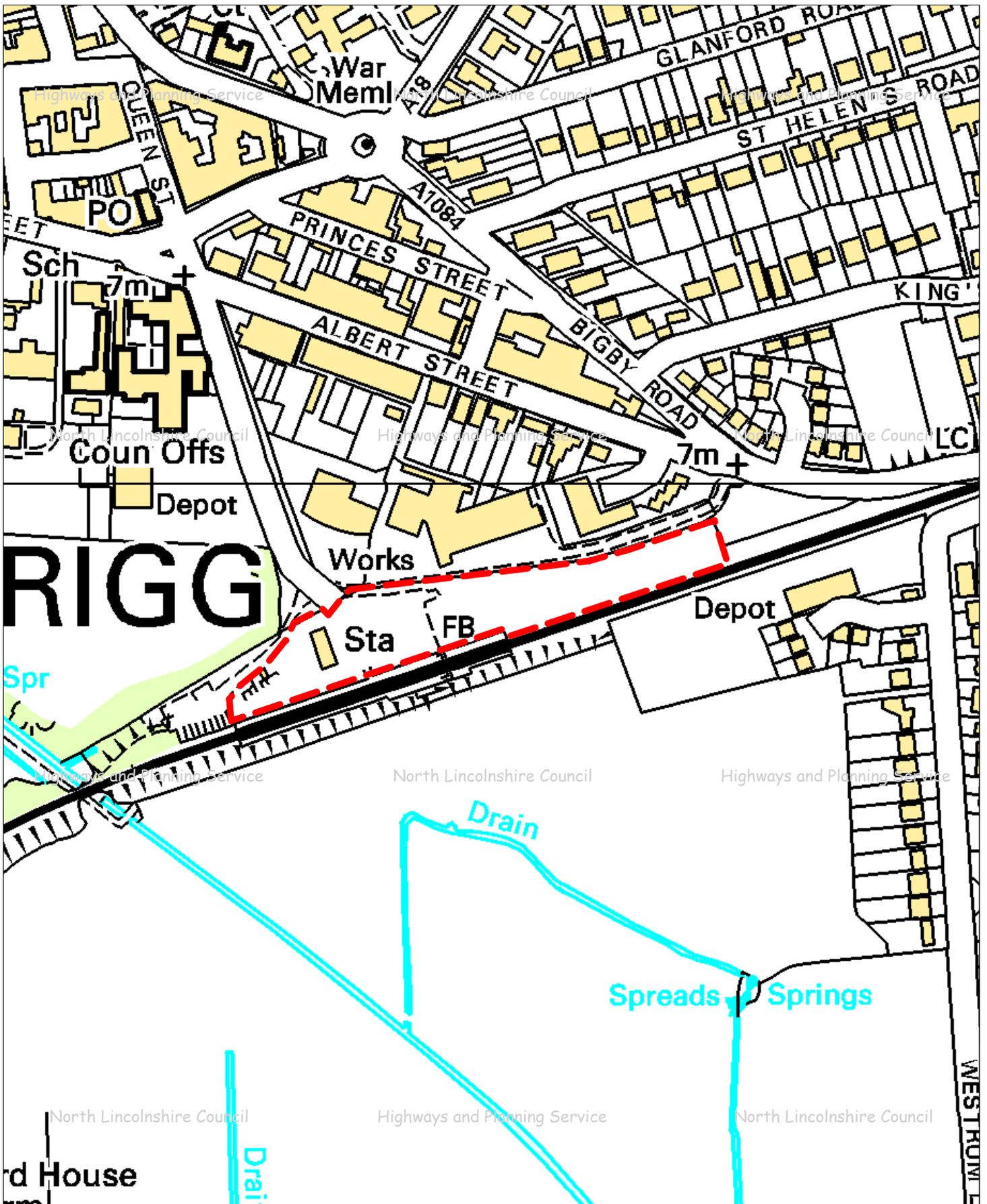
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Highways and Planning Service

Service Director,  
G Popple

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Drawing Title: The old coal yard

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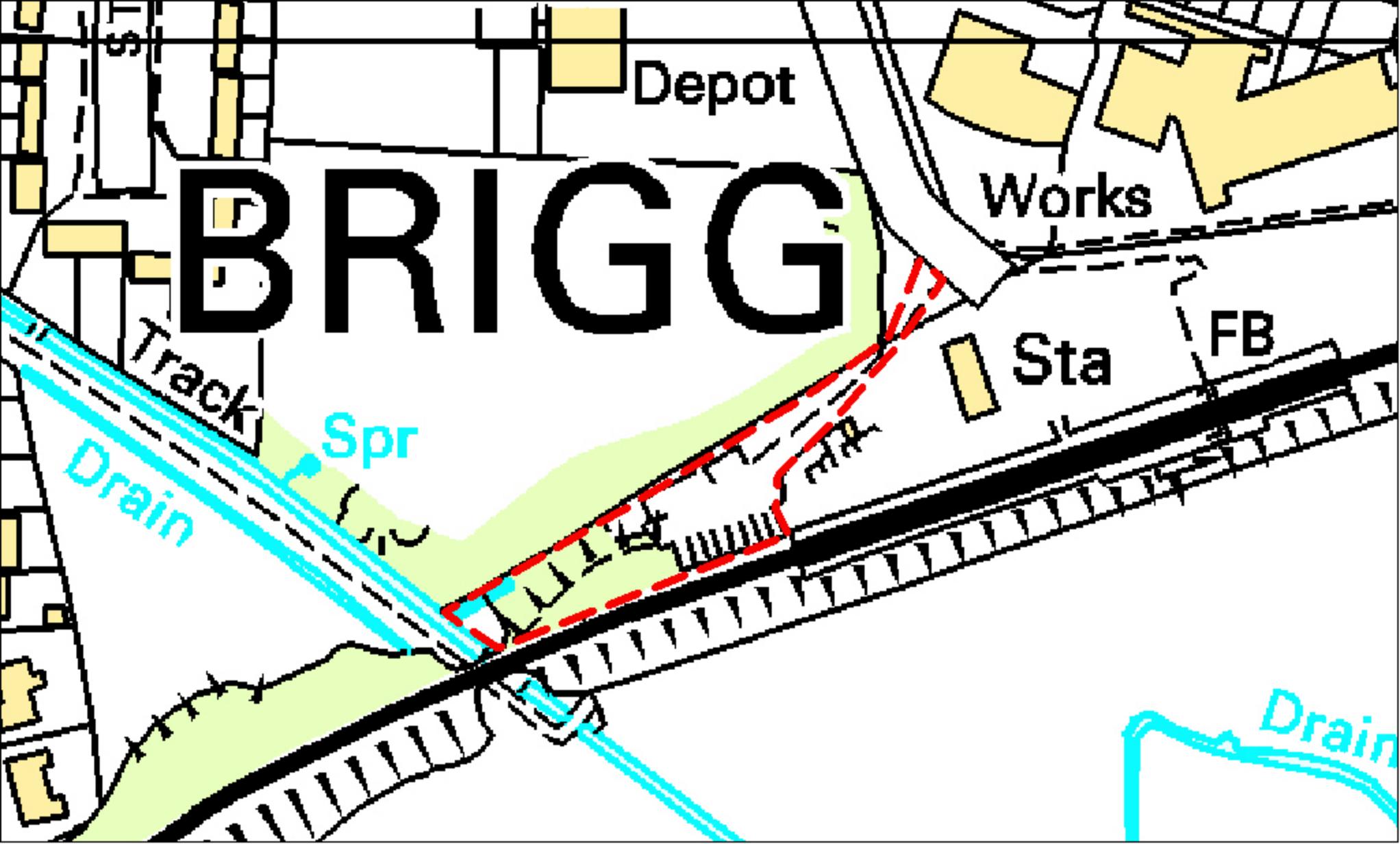
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Depot

**BRIGG**

Works

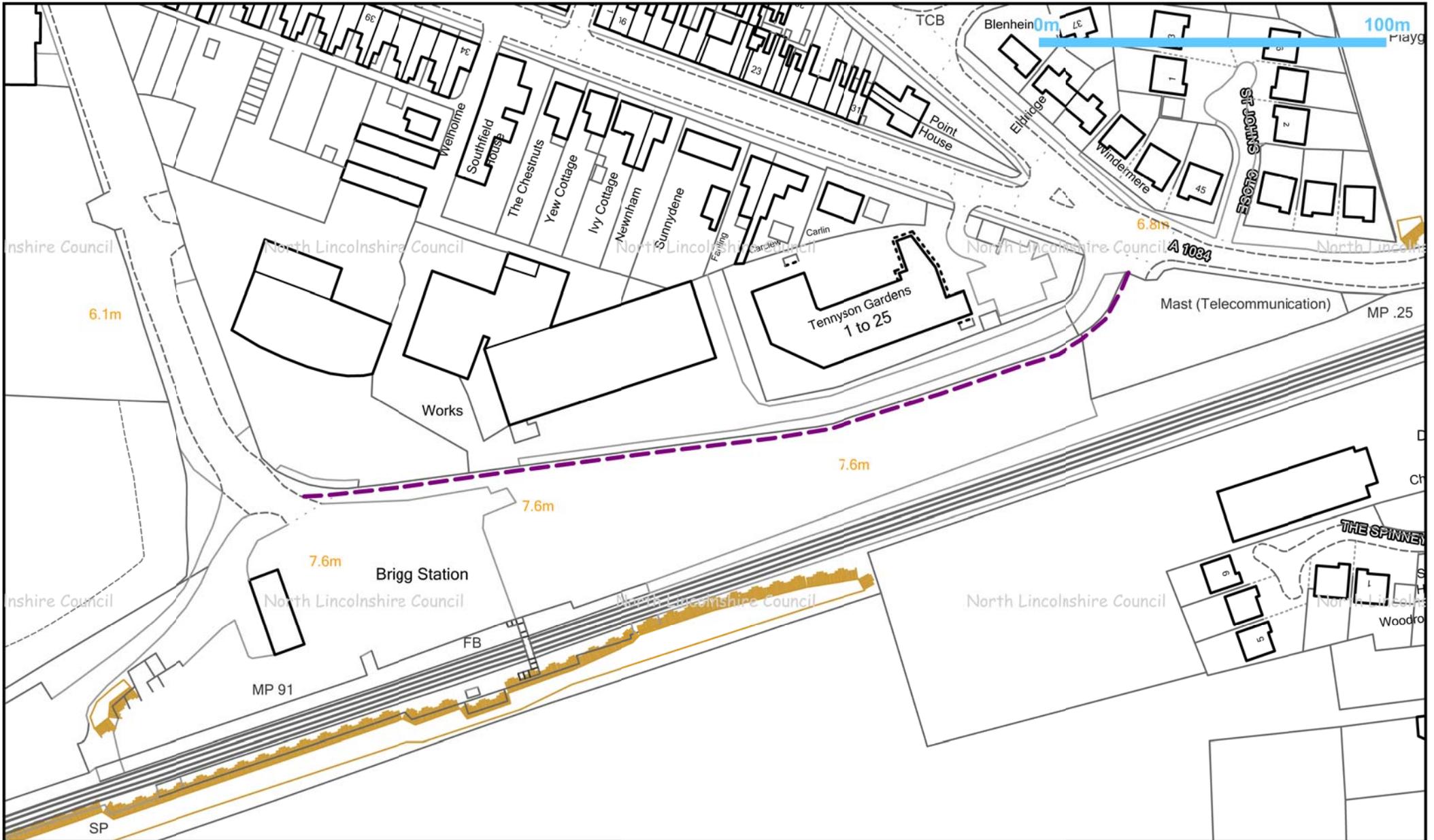
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Title: Appendix 5	
Drawing No:	Version: 1
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**Director of Places**  
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*Registration, deregistration and exchange of land*

**14 Statutory dispositions**

- (1) Regulations may make provision as to the amendment of a register of common land or town or village greens where by virtue of any relevant instrument—
  - (a) a disposition is made in relation to land registered in it as common land or as a town or village green; or
  - (b) a disposition is made in relation to a right of common registered in it.
- (2) Regulations may provide that, where—
  - (a) by virtue of any relevant instrument a disposition is made in relation to land registered as common land or as a town or village green,
  - (b) by virtue of regulations under subsection (1) the land ceases to be so registered, and
  - (c) in connection with the disposition other land is given in exchange, the land given in exchange is to be registered as common land or as a town or village green.
- (3) In this section, “relevant instrument” means—
  - (a) any order, deed or other instrument made under or pursuant to the Acquisition of Land Act 1981 (c. 67);
  - (b) a conveyance made for the purposes of section 13 of the New Parishes Measure 1943 (No. 1);
  - (c) any other instrument made under or pursuant to any enactment.
- (4) Regulations under this section may require the making of an application to a commons registration authority for amendment of a register of common land or town or village greens.
- (5) Regulations under this section may provide that a relevant instrument, so far as relating to land registered as common land or as a town or village green or to any right of common, is not to operate at law until any requirement for which they provide is complied with.

**15 Registration of greens**

- (1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.
- (2) This subsection applies where—
  - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
  - (b) they continue to do so at the time of the application.
- (3) This subsection applies where—
  - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
  - (b) they ceased to do so before the time of the application but after the commencement of this section; and

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- (c) the application is made within the period of two years beginning with the cessation referred to in paragraph (b).
- (4) This subsection applies (subject to subsection (5)) where—
- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
  - (b) they ceased to do so before the commencement of this section; and
  - (c) the application is made within the period of five years beginning with the cessation referred to in paragraph (b).
- (5) Subsection (4) does not apply in relation to any land where—
- (a) planning permission was granted before 23 June 2006 in respect of the land;
  - (b) construction works were commenced before that date in accordance with that planning permission on the land or any other land in respect of which the permission was granted; and
  - (c) the land—
    - (i) has by reason of any works carried out in accordance with that planning permission become permanently unusable by members of the public for the purposes of lawful sports and pastimes; or
    - (ii) will by reason of any works proposed to be carried out in accordance with that planning permission become permanently unusable by members of the public for those purposes.
- (6) In determining the period of 20 years referred to in subsections (2)(a), (3)(a) and (4)(a), there is to be disregarded any period during which access to the land was prohibited to members of the public by reason of any enactment.
- (7) For the purposes of subsection (2)(b) in a case where the condition in subsection (2)(a) is satisfied—
- (a) where persons indulge as of right in lawful sports and pastimes immediately before access to the land is prohibited as specified in subsection (6), those persons are to be regarded as continuing so to indulge; and
  - (b) where permission is granted in respect of use of the land for the purposes of lawful sports and pastimes, the permission is to be disregarded in determining whether persons continue to indulge in lawful sports and pastimes on the land “as of right”.
- (8) The owner of any land may apply to the commons registration authority to register the land as a town or village green.
- (9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land.
- (10) In subsection (9)—
- “relevant charge” means—
- (a) in relation to land which is registered in the register of title, a registered charge within the meaning of the Land Registration Act 2002 (c. 9);
  - (b) in relation to land which is not so registered—

- (i) a charge registered under the Land Charges Act 1972 (c. 61); or
- (ii) a legal mortgage, within the meaning of the Law of Property Act 1925 (c. 20), which is not registered under the Land Charges Act 1972;

“relevant leaseholder” means a leaseholder under a lease for a term of more than seven years from the date on which the lease was granted.

## 16 Deregistration and exchange: applications

- (1) The owner of any land registered as common land or as a town or village green may apply to the appropriate national authority for the land (“the release land”) to cease to be so registered.
- (2) If the release land is more than 200 square metres in area, the application must include a proposal under subsection (3).
- (3) A proposal under this subsection is a proposal that land specified in the application (“replacement land”) be registered as common land or as a town or village green in place of the release land.
- (4) If the release land is not more than 200 square metres in area, the application may include a proposal under subsection (3).
- (5) Where the application includes a proposal under subsection (3) –
  - (a) the replacement land must be land to which this Part applies;
  - (b) the replacement land must not already be registered as common land or as a town or village green; and
  - (c) if the owner of the release land does not own the replacement land, the owner of the replacement land must join in the application.
- (6) In determining the application, the appropriate national authority shall have regard to –
  - (a) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);
  - (b) the interests of the neighbourhood;
  - (c) the public interest;
  - (d) any other matter considered to be relevant.
- (7) The appropriate national authority shall in a case where –
  - (a) the release land is not more than 200 square metres in area, and
  - (b) the application does not include a proposal under subsection (3),have particular regard under subsection (6) to the extent to which the absence of such a proposal is prejudicial to the interests specified in paragraphs (a) to (c) of that subsection.
- (8) The reference in subsection (6)(c) to the public interest includes the public interest in –
  - (a) nature conservation;
  - (b) the conservation of the landscape;
  - (c) the protection of public rights of access to any area of land; and
  - (d) the protection of archaeological remains and features of historic interest.