

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

PUBLIC FOOTPATH 6, AMCOTTS, AT WHITE HOUSE, TRENTSIDE

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To consider whether we should refer an order to the relevant Secretary of State for determination ; and if so, whether we recommend he confirm it as made.

2. BACKGROUND INFORMATION

- 2.1 On 1 December 2017 the Director: Operations approved the making of an order modifying the definitive statement for the Isle of Axholme in respect of Public Footpath 6 in Amcotts (**see Appendix 1**). This was advertised on 26 April 2018 and resulted in the receipt of a single objection (**see Appendix 2**). We made the order under section 53 of the Wildlife and Countryside Act 1981 on the basis of us having discovered evidence which, when considered with all other evidence available, showed there were particulars within the statement that required modification.
- 2.2 Public Footpath 6 is one of only two public rights of way in the Parish of Amcotts, the other being Public Footpath 5 (**see Appendix 3**). Furthermore, it is the only public right of way within the actual village. It has a length of a little over 600 metres and runs from Church Street, at the church, to Trentside, adjacent to the river. The definitive map for the Isle of Axholme has shown it since publication by Lindsey County Council in 1962: no one disputes its existence ; there is a signpost where it leaves Church Street; and for most of its length its course is unambiguous on the ground .
- 2.3 There is, however, a problem at the Trentside end. Here it is not clear from the definitive map which side of a hedge the footpath follows. The hedge divides the approaches to two neighbouring properties : the White House on its south side and Salisbury House on its north. Neither householder admits to its being his side of the hedge where the footpath is.

- 2.4 The definitive map should show which side of a boundary a footpath follows. Unfortunately the former Lindsey County Council definitive maps sometimes fall short in certain respects. The scale, whilst legal, is at 1:25,000 too small. And the line representing the footpath is correspondingly too thick. At Trentside, therefore, the correct side of the hedge cannot be discerned.
- 2.5 To help with such situations, definitive maps also have written statements. Lindsey County Council, however, chose to use the statement sparingly. Consequently, few paths appear and, of those that do, Amcotts FP6 is not one of them. The Director of Operations decided, therefore, we should modify the statement ourselves, to add to it a form of words describing which side of the hedge the footpath follows on leaving Trentside. All we needed was evidence to that effect.
- 2.6 The evidence we had was not extensive, but at least we had some. This was chiefly in the form of minutes from a meeting of the Lindsey County Council Highways Committee that was held on 1 October 1956. These describe the route of Amcotts FP6 as being thus: "From main street eastward and southward to accommodation road leading to the White House and thence eastward along accommodation road to Trentside Road" (**see Appendix 4**). The minutes pre-date the publication of the definitive map. But they do relate to the draft map, which was part of the due process in law that authorities had to undertake when compiling their definitive maps.
- 2.7 Furthermore, both Defra's 'Rights of Way Circular 1/09' and The Planning Inspectorate's 'Rights of Way Advice Note 16, Widths on Orders' state how all modification orders should contain a width. The latter adds that the width can be defined by, for example, a physical boundary. Otherwise, it must be based on evidence and what is reasonable. It says too that in determining width, reference can be made to reliable maps, such as the Ordnance Survey 25-inch County Series. While this is not to be in terms of scaling off precise measurements, "they may indicate where significant variations of width occur between the minimum and maximum figures".
- 2.8 In the case of the drive to the White House, they show a uniform width. So too does the Ordnance Survey 1:10,000-scale 1945 map (**see Appendix 5**), which is much closer in era to the 1956 minutes. We felt we could safely take the northern flank of this width to be the hedge between the White House and Salisbury House. But only the eastern half of the southern flank remains. Because, however, the historical width was uniform throughout, we took the width of the eastern half of the footpath to be the width of its western half too. This gave us a measurement on the ground of five metres. Although this sounds excessive for a footpath, the 1956 minutes nevertheless describe the footpath as being "eastward along accommodation road". Again, the legal maxim is "once a highway, always a highway".

- 2.9 The objectors, the owners of the White House, disagree that the footpath follows their drive. They say it follows that of their neighbour's instead. This is in spite of the Lindsey County Council minutes. They rely instead on the Ordnance Survey County Series Second Edition 1:2,500-scale 1907 map as evidence for what they say they believe. This shows the footpath from the church, their driveway and that of Salisbury House's (**see Appendix 6**). They argue that the map gives the impression that the footpath continues down their neighbour's drive, not their own. Looked at independently of all else, they might have a point. Ordnance Survey maps, however, show physical features only and are not evidence of legal status. Furthermore, the Ordnance Survey County Series First Edition 1:2,500-scale 1887 map also shows the footpath from the church, but the driveway to the White House only (**see Appendix 7**). If, therefore, these historical Ordnance Survey maps were evidence of the footpath's line, the earlier map would trump the later one. This is because the legal maxim is "once a highway, always a highway".
- 2.10 When reading of driveways in this report, it is important not to think of typical driveways in typical streets. These are old rural properties with lots of land. If Amcotts FP6 follows that of the White House, it does so for about seventy-five metres. This, though, has given the owners of the White House concerns for their security. They have thus put a gate across their drive close to Trentside that they say they lock at night. However, while officers are not unsympathetic, such considerations are outside the scope of this enquiry. What we have to establish is where the footpath already is, not where we would like it to be.
- 2.11 The objectors have also asked why we cannot simply stop the footpath up. But Amcotts has next to no footpaths as it is. Moreover, legally it would have to appear to us that doing so was expedient on the grounds FP6 was no longer needed by the public. Yet we have no evidence that this is the case. Stopping up, therefore, is unlikely to be an option. Nor is there anywhere obvious to divert the footpath to in lieu of the drive of the White House. Nevertheless, the owners of the White House can still take up with officers all such ancillary matters once Amcotts FP6's disputed line has been determined.
- 2.12 Although the objectors refer to other paths in Amcotts that have been stopped up, this is not so. Paths shown by the Ordnance Survey on historical maps were not necessarily public. Nor did any of these other paths appear on the Isle of Axholme definitive map at publication and none has been deleted from it since.

3. OPTIONS FOR CONSIDERATION

- 3.1 We have no option in law other than to refer the order to the Secretary of State. When doing so, however, we need to have established whether the order has our continued support. It is normal for an order-making authority to support confirmation on referral unless new

evidence has come to light that would have persuaded us not to have made the order had we know of this evidence at the outset.

4. ANALYSIS OF OPTIONS

4.1 With respect to the objectors, they have raised nothing pertinent that we did not know already when the decision to make the order was taken. Additionally, we owe it to both the public and the affected landowners alike – the objectors and their neighbour – to determine as soon as we possibly can where the footpath really runs. For example, at present we are not signposting Amcotts FP6 where it leaves Trentside. This is, of course, because of the disputed line. But we do have a statutory duty to signpost public footpaths where they leave a metalled road. Whilst this situation continues, therefore, we are in breach of that duty and the public are left wondering where the path is.

4.2 It is likely that eventually, moreover, either the White House or Salisbury House might be put up for sale. In such circumstances, the footpath dispute could be picked up by the conveyancing process. Continued uncertainty, therefore, helps no one.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, I.T.)

5.1 There are no significant resource implications requiring consideration.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 Not applicable.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

7.1 When we advertised the making of the order, we consulted the Axholme North ward members, Amcotts Parish Council, user groups, farming bodies and statutory undertakers. No objections resulted.

8. RECOMMENDATIONS

8.1 That the Planning Committee approves that we ask the Secretary of State for the Environment, Food and Rural Affairs to confirm “Definitive Map Modification (Public Footpath 6, Amcotts) Order 2018(1)” as made.

DIRECTOR OF OPERATIONS

Church Square House
30-40 High Street
SCUNTHORPE

North Lincolnshire
DN15 6NL
Author: Colin Wilkinson
Date: 20 June 2018

Background Papers used in the preparation of this report:

- **Office file “Amcotts FP6, DMMO 2018” held electronically only by the Environment and Sustainability Group at Church Square House, Scunthorpe**

APPENDIX 1

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

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

**Definitive Map Modification (Public
Footpath 6, Amcotts) Order 2018(1)**



Wildlife and Countryside Act 1981

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

"Definitive Map Modification (Public Footpath 6, Amcotts) Order 2018(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)(iii) – namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that there are other particulars contained in the statement that require modification – 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:

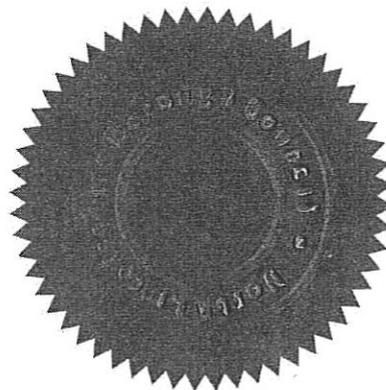
1. For the purposes of this order the relevant date is 21 February 2018.
2. The 'County of Lincoln, Parts of Lindsey (Isle of Axholme)', definitive map and statement shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the order.
3. This order shall take effect on the date it is confirmed and may be cited as the "Definitive Map Modification (Public Footpath 6, Amcotts) Order 2018(1)".

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

(authorised signatory)

Dated: 22nd February 2018

Seal Number: 8717



Wiley

SCHEDULE

PART I

Modification of Definitive Map

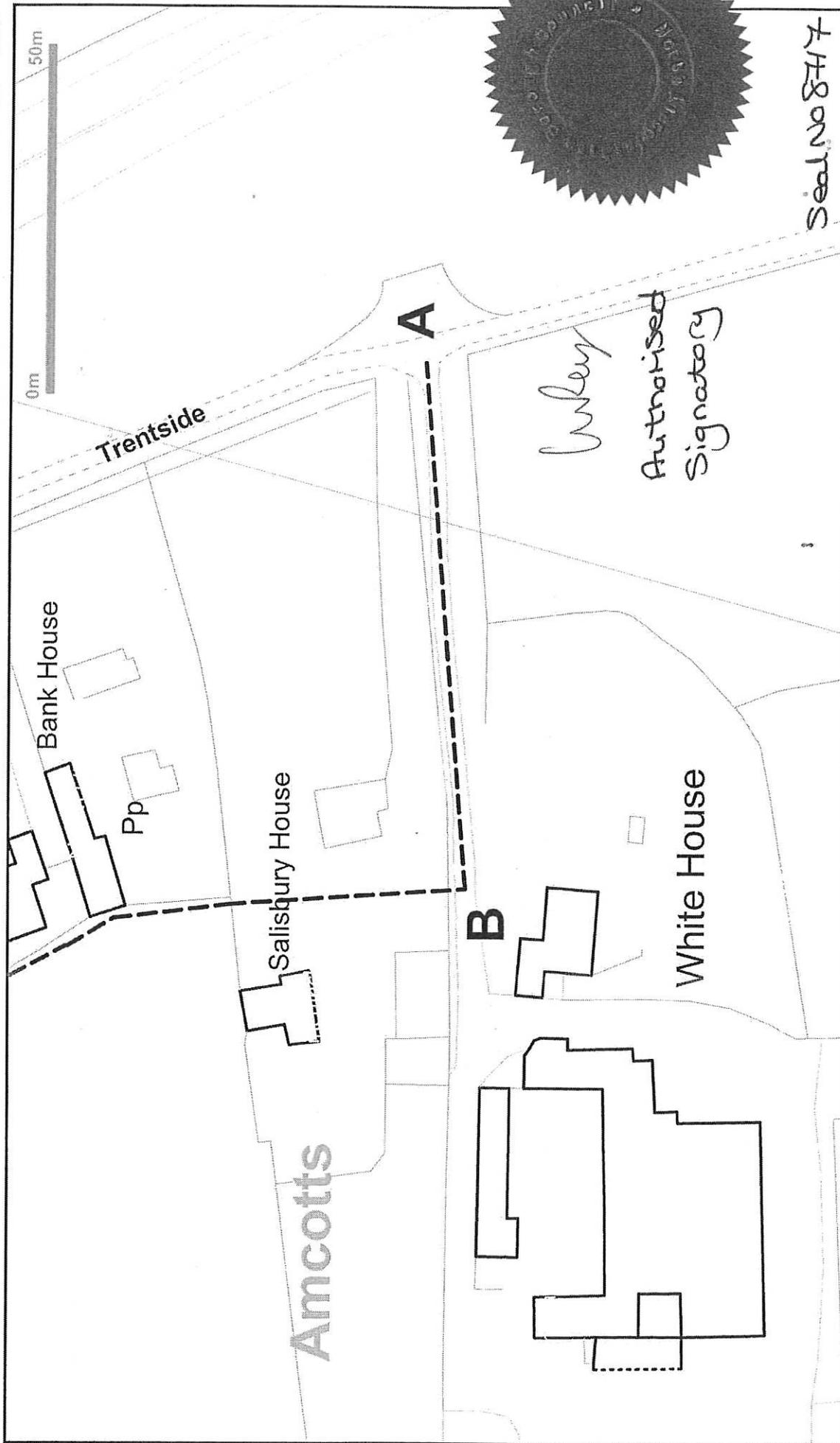
Not applicable because map to remain unchanged.

PART II

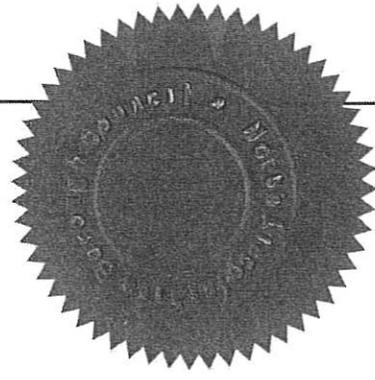
Modification of Definitive Statement

Variation of particulars of path or way

Points A – B, as indicated on map: a public footpath commencing on Trentside at its junction with the driveway to the property known as The White House at grid reference SE85951398 and proceeding westwards for seventy five metres along said driveway over a width of five metres to grid reference SE85871397, this being the point at which the footpath veers north.

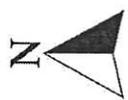


Seal No 8717



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

Title:	
Drawing No:	Version: 1
Drawn by: Colin Wilkinson	Date: 03/11/2017
Scale @A4 1:750	



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APPENDIX 2

Your Ref: CTW/2/6

White House Farm
Trentside

Amcotts

Scunthorpe

DN 17 4AX

May 16 2018

Dear Sir/Madam

Re: Public Footpath 6 Amcotts

I am writing to make an objection relating to the order Public Footpath 6 Amcotts (1) with reference to the 1936 order to put the footpath down the driveway at White House it was not objected to because at the time the property was unoccupied, prior to this the footpath went down a field leading to Salisbury House. We have a copy of the ordnance survey map which clearly shows it going down the field leading to Salisbury House.

This footpath was created mainly for villagers to make their way to church along with other ones which have since been closed.

When my family moved here in the early 60's we were led to believe that the footpath went down the field leading to Salisbury House. Over the years people that have lived at Salisbury House have purchased the fields at both sides of the house which means that the footpath now goes through their private garden.

As the footpath stands it comes down a private driveway and through a private garden and is an invasion on private property.

We feel that this makes our property open to anyone and as an elderly couple this makes us feel very vulnerable and uneasy and as we were burgled in 2011 it makes us feel that we cannot protect our property.

We feel that this footpath is giving anyone the right to walk onto our property. I would also like to point out that this footpath has not been used for the past seven years and would ask you to consider closing it.

Thank you for taking the time reading my letter.

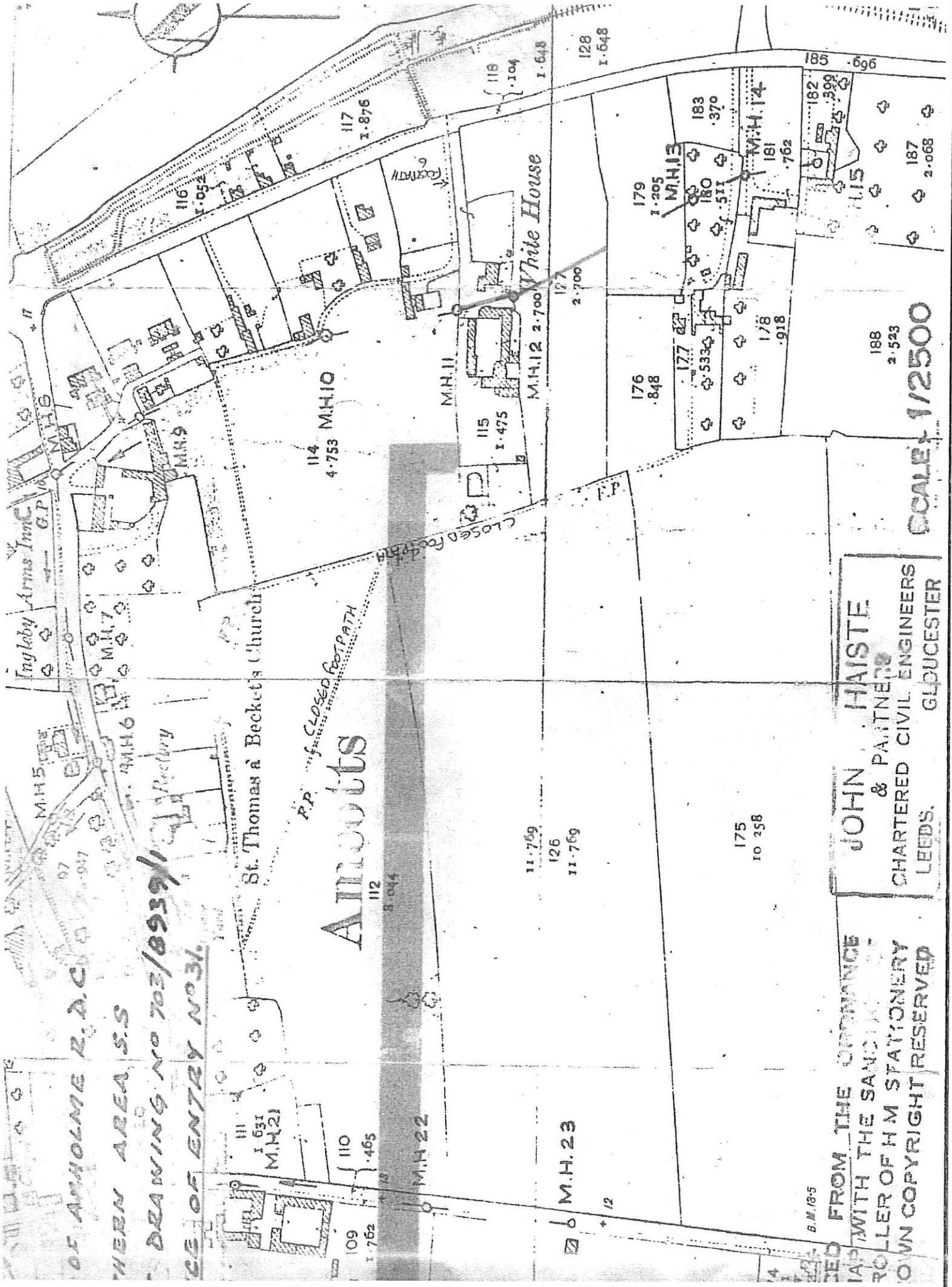
Yours Sincerely.

Mrs J. Farnham J. Farnham

Mr D. Farnham 

End

Copy Drawing No 703/8939/1.



OF ANCOATS R.D.C.
 NERN AREA S.S.
 DRAWING NO 703/0939/1
 CE OF ENTRY NO 31.

St. Thomas à Becket's Church

Ancoats

White House

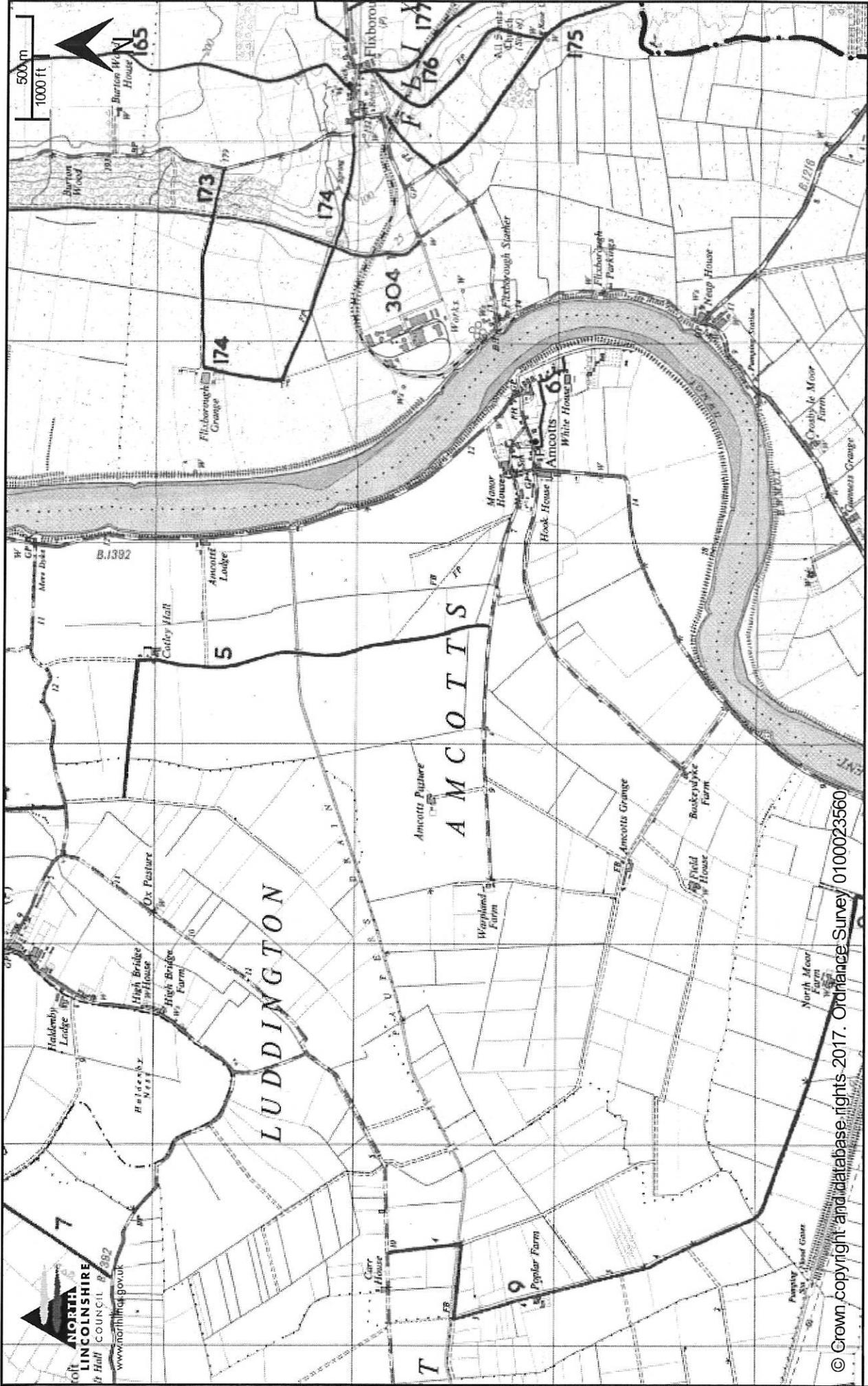
JOHN HAISTE
 & PARTNERS
 CHARTERED CIVIL ENGINEERS
 LEEDS. GLOUCESTER

SCALE 1/2500

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 OWN COPYRIGHT RESERVED

116 1.052
 117 2.876
 118 1.104
 128 1.648
 114 M.H.10 4.753
 M.H.11 1.475
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 179 1.205 M.H.13
 180 .370
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 183 .370
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 187 2.068
 188 2.523
 176 .848
 177 533
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 115 115
 112 112
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 175 10 258
 109 1.762
 110 1.465
 M.H.22
 M.H.23
 1/2
 B.M.105

APPENDIX 3



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Add Title here
Scale @A4 1:25000

NORTH LINCOLNSHIRE
COUNCIL
2 Hall Councillor B.1392
www.northlincs.gov.uk

APPENDIX 4

Extract from Minutes of Lindsey County Council Highways Committee 1 October 1956

160

HIGHWAYS
1 Oct 56

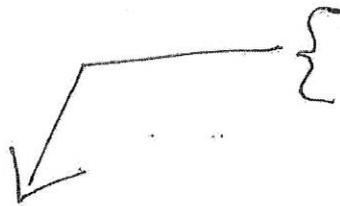
The necessary investigations and enquiries into the status of the disputed paths had been made. In the light of the information obtained and after considering the representations and objections, the Committee RESOLVED that the County Council be recommended to modify the particulars contained in the draft map and statement for the Isle of Asholme Rural District as follows:-

Paths to be added to the map as alleged rights of way

<u>Parish</u>	<u>Path No.</u>	<u>Classification</u>	<u>Description</u>
Woot	-	Footpath	Over accommodation roads known as Aores Lane and Corson Lane.
do.	-	do.	Over unnamed accommodation road leading southward from Field Lane and joining B.R.149 at Mission Bank.

Path, the route of which as shown on the draft map is to be corrected

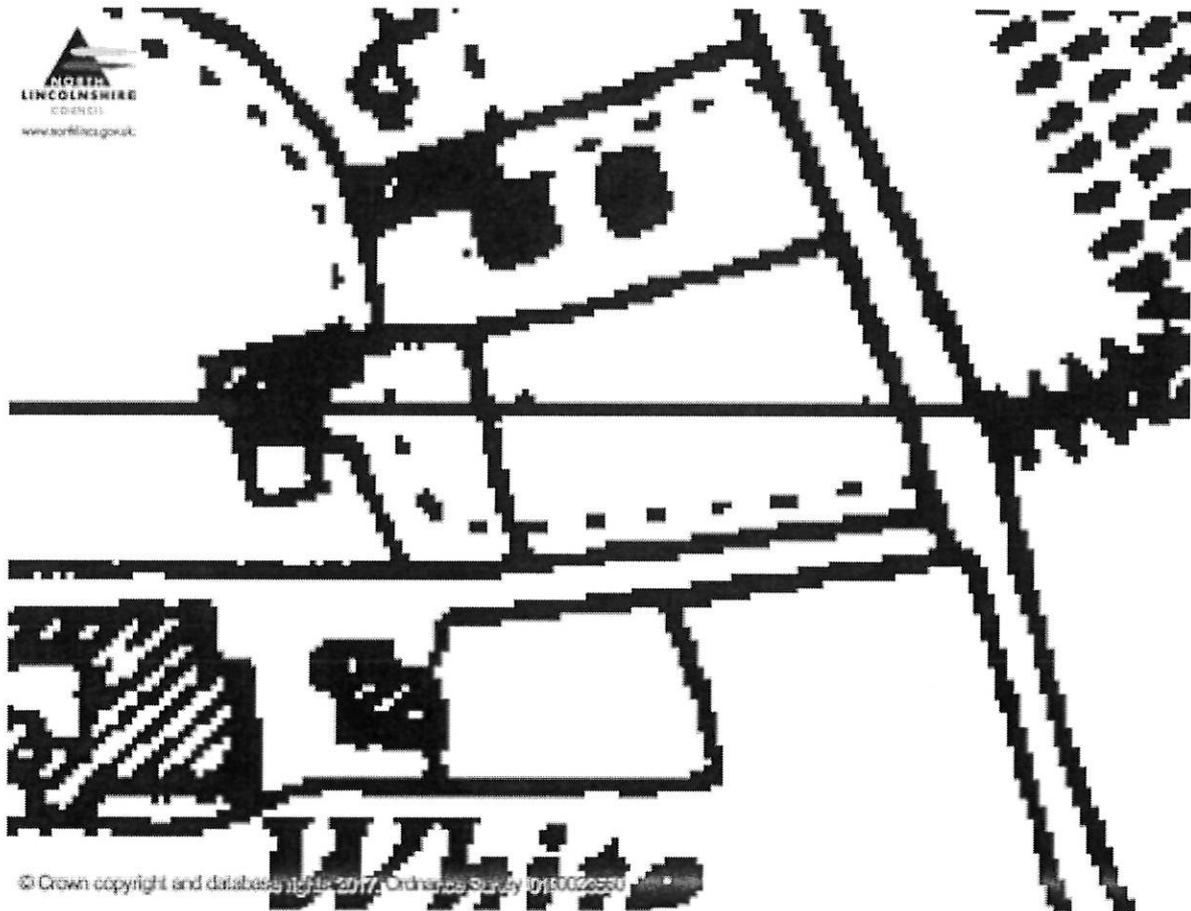
Acotts	6	Footpath	From the main village street eastward, southward and eastward to extreme southern point of Trentside Road. <u>Corrected route - from main village street eastward and southward to accommodation road leading to the White House and thence eastward along accommodation road to Trentside Road.</u>
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" CORRECTED ROUTE - FROM MAIN VILLAGE STREET EASTWARD AND SOUTHWARD TO ACCOMMODATION ROAD LEADING TO THE WHITE HOUSE AND THENCE EASTWARD ALONG ACCOMMODATION ROAD TO TRENTSIDE ROAD "

APPENDIX 5

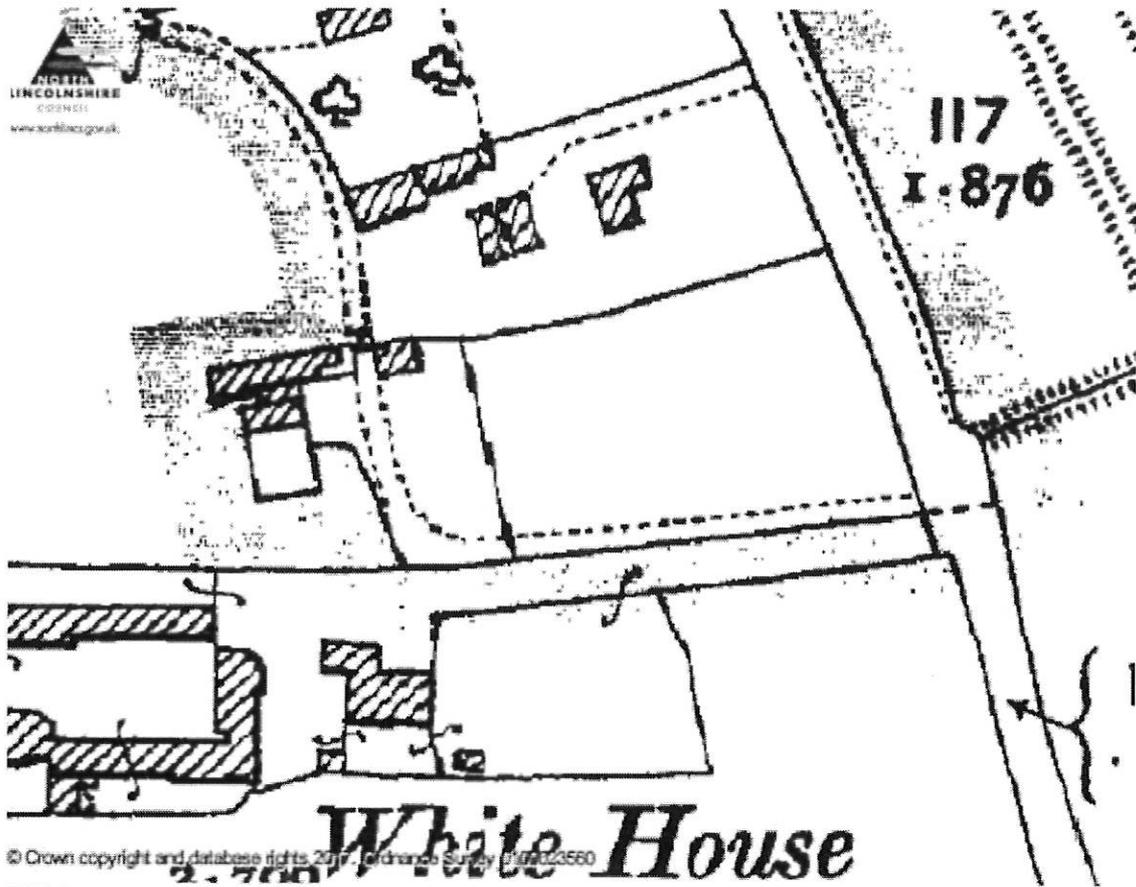
Extract from Ordnance Survey 1:10,000-scale Map Circa 1945



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Scale @A4 1:700

APPENDIX 6

Extract from Ordnance Survey 1:2,500-scale Map Circa 1907



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dd Title here
ale @M 1:709

APPENDIX 7

Extract from Ordnance Survey 1:2,500-scale Map Circa 1887

