

Open Report on behalf of Richard Wills - Executive Director - Development Services

Report to:	Definitive Map & Statement of Public Rights of Way Sub-Committee
Date:	04 October 2010
Subject:	Appeal against the prioritisation of DMMO 340 - Caistor - Claimed Public Footpath from Buttermarket to Plough Hill

Summary:

An appeal by Caistor Town Council against the current standing of DMMO case No.340 within the County Council's priority system.

Recommendation(s):

That consideration is given to Caistor Town Council's proposal to upgrade the priority of the modification order case.

1. Background

As Surveying Authority the County Council has a statutory duty to keep under continuous review the Definitive Rights of Way Map and Statement for Lincolnshire and to make orders to take account of events requiring the map to be modified. This is carried out by the processing of Definitive Map Modification Orders (DMMOs) which are either applied for by the public or initiated by the Authority on the discovery of evidence.

Highways & Traffic Guidance Note HAT33/2/09 sets out that such cases will be dealt with in order of receipt/initiation unless one or more of the eight "exception criteria" apply.

The criteria are as follows:

1. Where there is sustained aggression, hostility and ill feeling within a community that is causing severe disruption to the life of that community, and that in processing the case early there is a strong likelihood that this will reduce.
2. Where there is a significant threat to the route, likely to cause a permanent obstruction (e.g. a building, but not, for example, a locked gate or residential fencing).

3. Where there is, or has been, a finding of maladministration by the Local Government Ombudsman on a particular case and that in processing the case the County Council will discharge its duty to the Ombudsman's decision.
4. Where legal proceedings against the County Council are instigated or are likely to be instigated and it is possible that the Authority has a liability.
5. Where there is a risk to children on County Council owned property and land or where the claimed route would provide for a safer alternative route to a school, play area or other amenity for children.
6. Where there is a significant financial saving to the County Council (and therefore taxpayers) through the processing of an Order.
7. Where a new application is received that relies on evidence of a case already received or, if the new application forms part of or is adjoining to an existing claim, the new claim will be dealt with at the same time as the older application.
8. Where the route will significantly assist in achieving a Countryside and Rights of Way Improvement Plan Objective or Statement of Action.

Caistor Town Council has appealed against the current priority of DMMO 340, a claimed public footpath between Buttermarket and Plough Hill.

Appendix A is a brief case synopsis including the reasons for the Town Council's appeal

2. Conclusion

That Caistor Town Council have made a valid appeal against the current prioritisation of the case which requires consideration by this sub-committee.

3. Consultation

a) Scrutiny Comments

b) Executive Councillor Comments

c) Local Member Comments

d) Policy Proofing Actions Required

n/a

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Case Synopsis for Caistor - Claimed Public Footpath between Buttermarket and Plough Hill.

5. Background papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

Highways & Traffic Guidance Note 33 – Prioritisation of Definitive Map Modification Orders - HAT 33/2/09
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This report was written by Chris Miller, who can be contacted on 01522 782070 or chris.miller@lincolnshire.gov.uk.

**Wildlife & Countryside Act 1981, Section 53
Definitive Map Modification Order
Caistor – Claimed Public Footpath between Buttermarket and Plough Hill**

1. Application

An application under the Wildlife & Countryside Act 1981, section 53(5) from Mr. Steven Webster was made on 18th September 2009 to add a public footpath in the town of Caistor between the area known as Buttermarket and Plough Hill.

2. Plan of Route

See attached

3. Evidence in support of the application

Accompanying the application were 14 user evidence forms. Subsequent submissions include a copy of the 2nd Edition Ordnance Survey map of the area c.1906 (see attached below) and a further 9 user evidence forms. The collator of the user evidence forms has stated that she has asked others to complete forms but they will not do so because of the fear of repercussions from affected landowners.

4. Background

Brief analysis of the route shows that there has been some kind of passageway for many years probably since the rebuilding of the centre of Caistor following a major fire in 1681 (the Sessions House adjacent to the claimed route to the south is the oldest building to have survived the fire and had been built in 1662).

In 2009 a set of iron railings and gate were erected across the eastern (Buttermarket) end by one of the owners of adjacent properties. The railings were erected to curb anti-social behaviour occurring on the route, possibly a consequence of the location of the White Hart public house on Buttermarket.

Following the application, a 231 signature petition was submitted by a concerned resident. The signatures were collected on the morning of Saturday, April 3rd 2010

5. Current Priority

Following receipt of the application it was felt by officers that none of the exception criteria applied. The case is currently ordered at number 153 of 155 outstanding cases.

6. Appeal

An appeal against the County Council's prioritisation of the case was received from the Town Council dated 20th September 2010.

The appeal is made on the grounds contained in criteria 1) & 8):

- 1) *Where there is sustained aggression, hostility and ill feeling within a community that is causing severe disruption to the life of that community, and that in processing the case early there is a strong likelihood that this will reduce.*

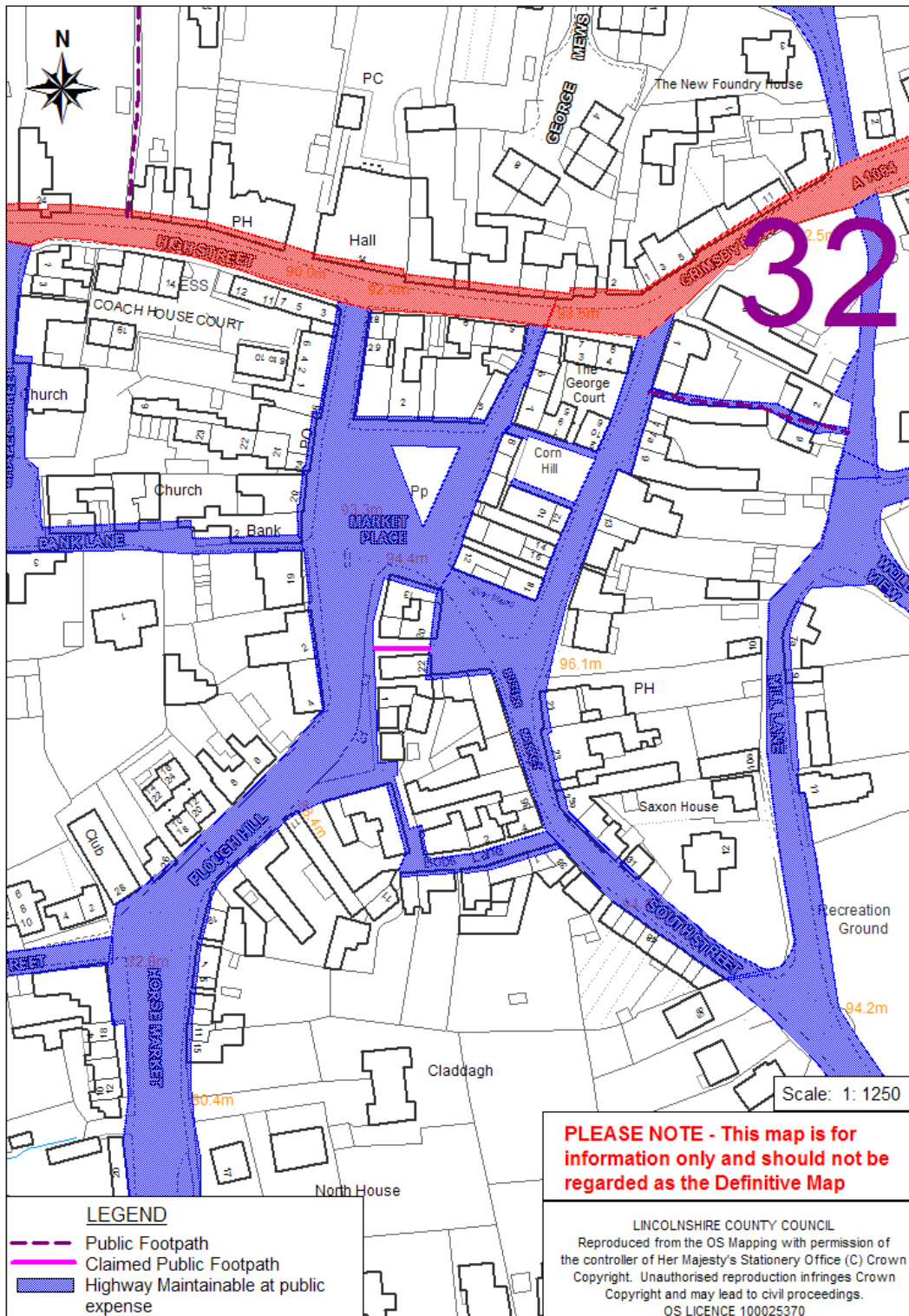
The Town Council highlight that there has been much ill-feeling within the community resulting in a petition, a Facebook campaign demanding the reopening of the route which has received a number of hostile comments and a further 23 signatures in an on-line petition. Over 12 members of the public also registered their complaints in a joint surgery between the District and County Councillor on 7th August 2010.

- 8) *Where the route will significantly assist in achieving a Countryside and Rights of Way Improvement Plan Objective or Statement of Action*

The Town Council believe that the opening of the claimed route is in line with the aims and objectives of the County Council's Countryside Access & Rights of Way Improvement Plan in that it provides a more direct route through cutting the corner at the Market Place, it is a useful link for those with a disability and it is also a safer route than the alternative which is alongside the busy Market Place where there is close proximity to moving traffic especially when using prams, pushchairs, walking aids and disabled scooters.

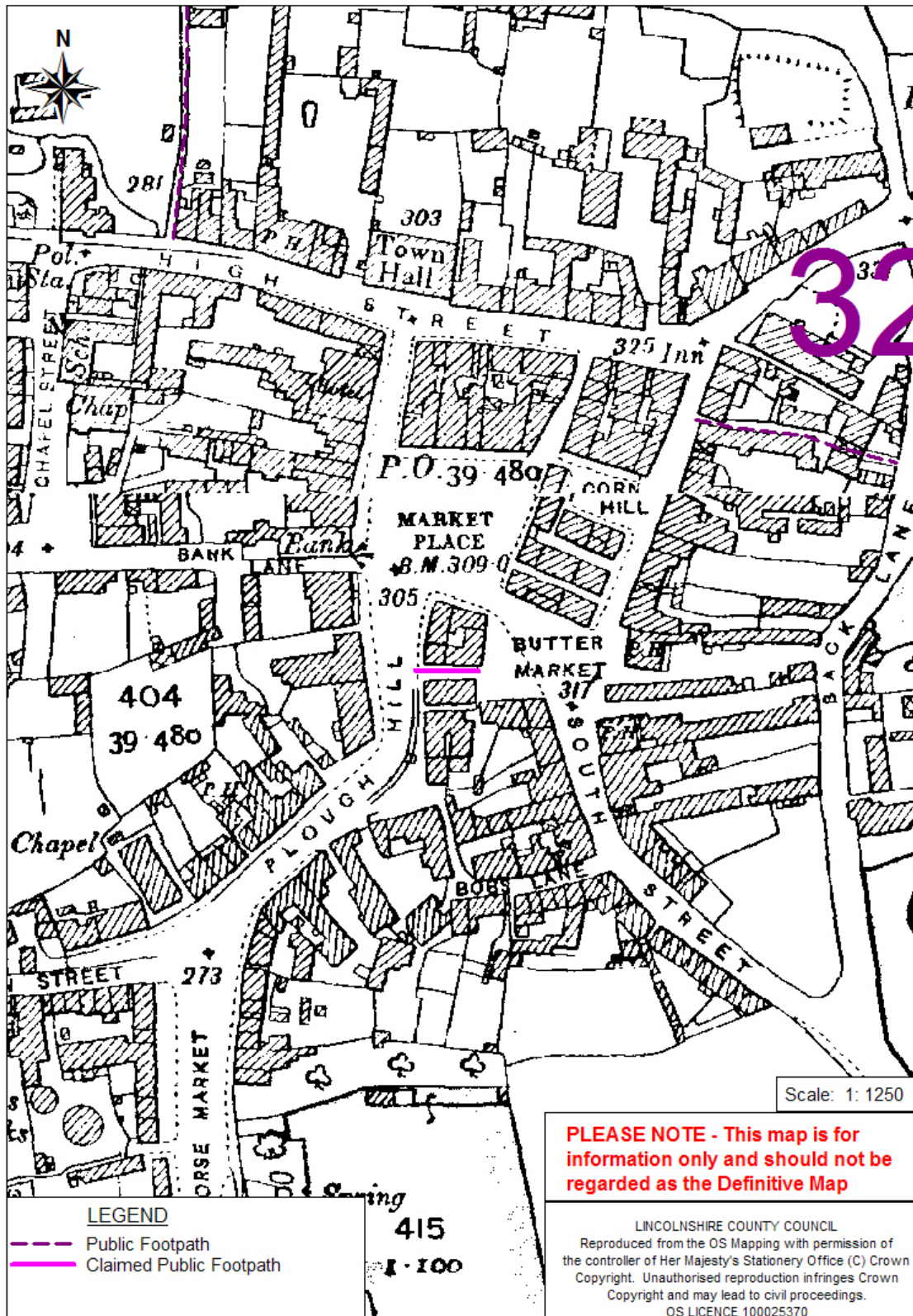
Appendix A - Case Synopsis for Caistor - Claimed Public Footpath between Buttermarket and Plough Hill.

Location Plan



Appendix A - Case Synopsis for Caistor - Claimed Public Footpath between Buttermarket and Plough Hill.

Ordnance Survey 2nd Edition c.1906



LEGEND

- Public Footpath
- Claimed Public Footpath

PLEASE NOTE - This map is for information only and should not be regarded as the Definitive Map

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Appendix A - Case Synopsis for Caistor - Claimed Public Footpath between Buttermarket and Plough Hill.

E-mail constituting official appeal from Caistor Town Council

Dear Mr Miller

Caistor Town Council wishes to add further reasons for the reopening of the Right of Way from Plough Hill to Butter Market.

A large number of people used that route not only for convenience but for safety reasons ie people with children, the elderly, disabled etc.

Reasons being:

1. It cuts a corner. Useful for those with a disability 2. It is a much safer route. Going round in front of the shops places pedestrians at risk from the close proximity of moving traffic, often very fast moving, to the narrow pavement. Particularly when using prams, pushchairs, walking aids, disabled scooters etc.

There has been ill feeling within the community which has resulted in a petition, a page created on Facebook which has received a number of hostile comments, and the joint surgery held at the Multi Use Centre on 7th August was attended by over 12 people registering their complaint against its closure. Names & addresses can be supplied by District Cllr Alan Caine if so wished.

I hope this information will enable LCC to consider the request for reopening the right of way as soon as possible so that the townspeople of Caistor are appeased.

Yours sincerely
Helen Pitman
Town Clerk