



<b>Report No. DM.03 11/12</b>
<b>Development Management Committee</b>
<b>Date 1 June 2011</b>

**Subject: Proposed Stopping Up of Public Footpath Trinity Street, Gainsborough**

Report by:	Director of Strategy and Regeneration
Contact Officer:	Name: Lesley Wain Tel: 01427 676625 Post Title: Senior Technical Administrator & Customer: Support Officer Email: Lesley.wain@west-lindsey.gov.uk
Purpose / Summary:	Details of a public footpath stopping up application which requires determination by the Committee.

**RECOMMENDATION(S):**

**(a) That Members give approval for the statutory procedure to commence for the stopping up of public footpath Gain/19/1 at Trinity Street in Gainsborough**

## IMPLICATIONS

**Legal:** In the event that the Council supports the proposal, statutory consultation will need to be undertaken and any representations considered prior to the making of any Order.

**Financial :** The applicant has agreed to contribute to the administrative costs incurred in the preparation of the Order.

**Staffing :** Staff time in processing the application through to confirmation of the Order.

**Equality and Diversity including Human Rights :** None arising as a result of this report

*NB: A full impact assessment **HAS TO BE** attached if the report relates to any new or revised policy or revision to service delivery/introduction of new services.*

**Risk Assessment :** Low – possibility of Public Inquiry with associated costs if objections are received to the order.

**Climate Related Risks and Opportunities :** None arising as a result of this report

**Title and Location of any Background Papers used in the preparation of this report:**

Application received from British Continental Estates Ltd. (attached)

The Stopping up of Highways (County of Lincoln, Parts of Lindsey) (No 5) Order 1965 (attached)

**Call in and Urgency:**

**Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?**

Yes

No

**Key Decision:**

Yes

No

# 1 Introduction

## 1. Introduction

1.1 An application has been received from a landowner for the stopping up of public footpath GAIN/19/1 at Trinity Street in Gainsborough as a result of planning permission 126488 to erect a restaurant with associated parking and landscaping.

## 2. The Current Position

2.1 Under Section 257 of the Town & Country Planning Act gives the Council discretionary powers to close a footpath "*if they are satisfied it is necessary to do so in order to allow the development to be carried out*" The route of the footpath passes through the site of the planned restaurant.

2.2 It is proposed to close the existing footpath between points A-B as indicated on the attached plan at Appendix i.

2.3 This footpath used to run from Hawksworth Street to Trinity Street and in 1965 there was a Stopping Up Order that closed the majority of the route. The closure of this remaining random spur of footpath will not result in a loss of amenity to the town. A copy of the stopping order is attached at appendix ii.

2.4 The relevant bodies and statutory undertakers have been notified of the proposals and at the time of writing the report no objections have been received.

## 3 The Human Rights Act

3.1 The Human Rights Act incorporates two rights and freedoms that are set out in the European Convention on Human Rights into UK Law. Insofar as it is possible, all legislation must be interpreted so as to be compatible with the convention.

3.1 The committee is required to consider the application in accordance with the principle of proportionality. The committee will need to consider the protection of individual rights and the interests of the community at large.

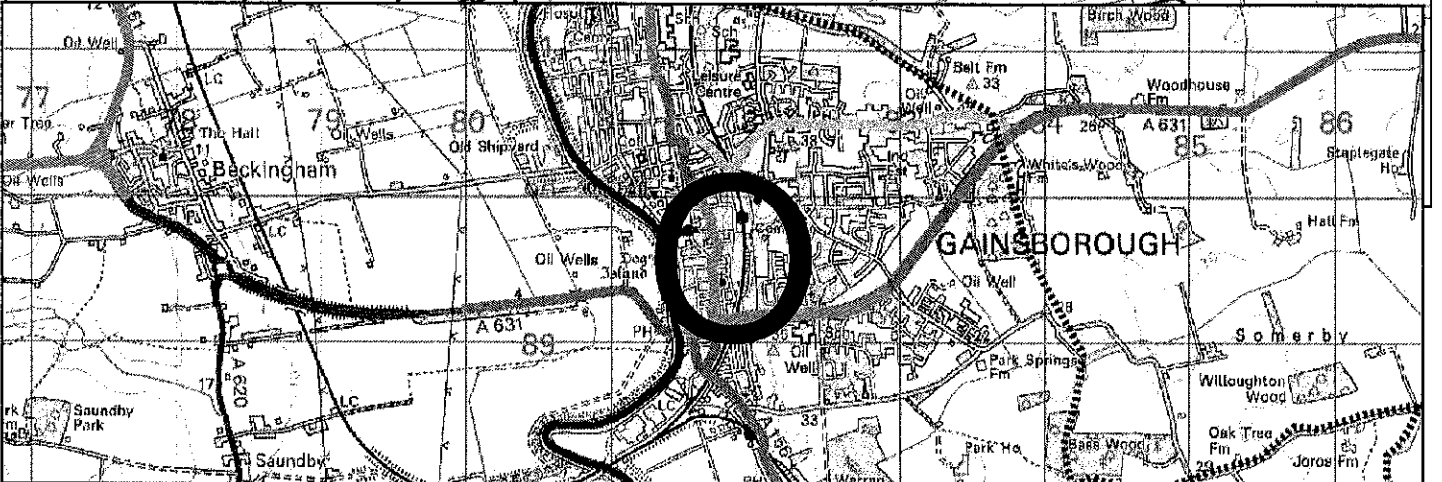
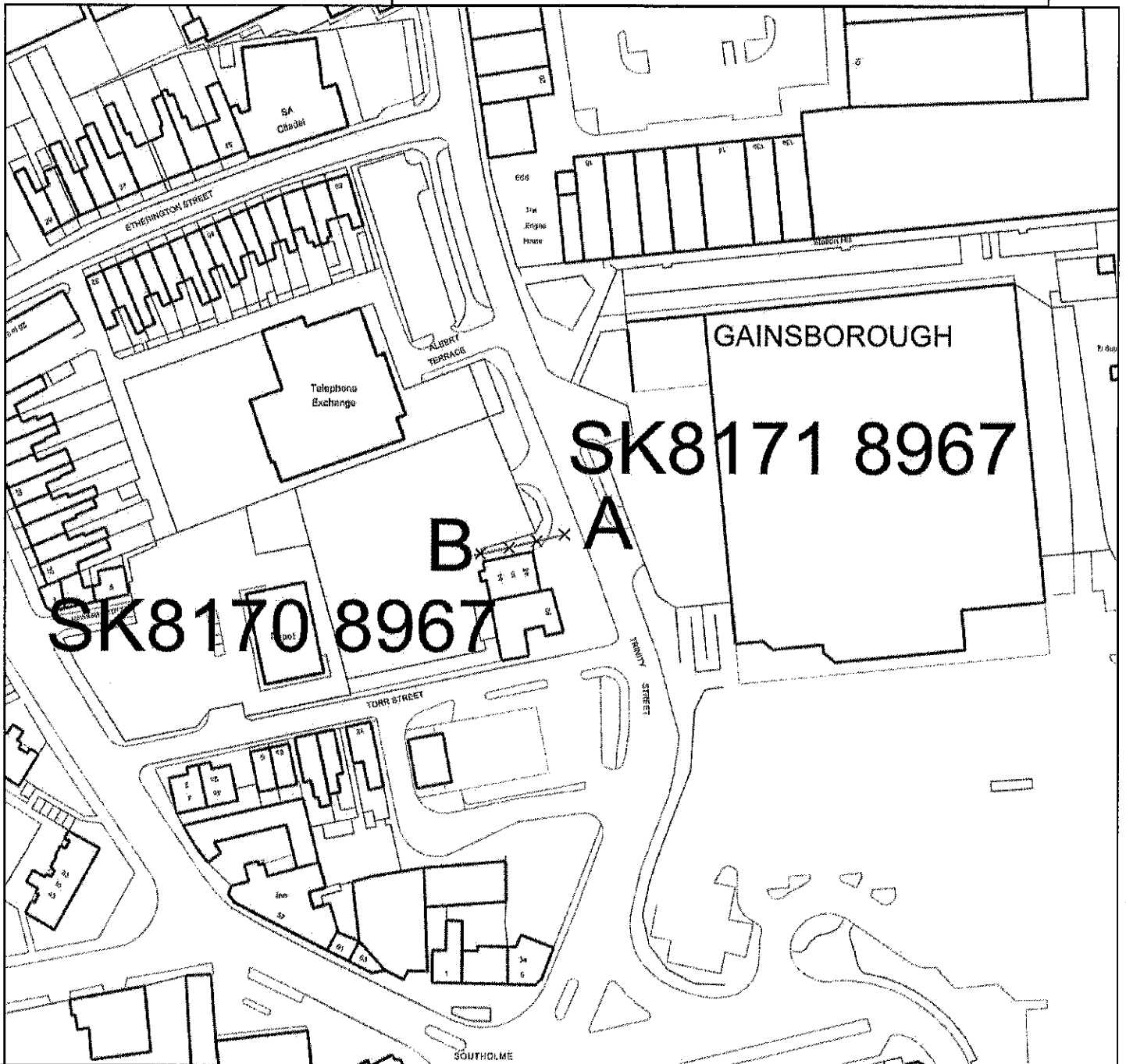
## 4 Conclusion

4.1 Approval is sought to proceed with the stopping up of public footpath GAIN/19/1 at Trinity Street in Gainsborough.





TOWN & COUNTRY PLANNING ACT 1990  
STOPPING UP ORDER  
PRoW: GAINS/19/1  
SCALE: 1:2500



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Town and Country Planning Act 1962THE STOPPING UP OF HIGHWAYS (COUNTY OF LINCOLN, PARTS OF LINDSEY)  
(NO. 5 ) ORDER 1965

Made 8th November 1965

The Minister of Transport makes this Order in exercise of his powers under section 153 of the Town and Country Planning Act 1962, and of all other enabling powers:-

1. The Minister of Transport authorises the stopping up of the highway described in the Schedule to this Order, being satisfied that the stopping up is necessary to enable development to be carried out in accordance with planning permission granted under Part III of that Act.
2. Where immediately before the date on which a highway is stopped up in pursuance of this Order there is apparatus on, under or over that highway belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall (subject to the provisions of section 32(3) of the Mineral Workings Act 1951) continue to have the same rights in respect of the apparatus as they then had.
3. In this Order "the deposited plan" means the plan numbered "SH.8/841-5", marked "Highway at Gainsborough in the County of Lincoln, Parts of Lindsey", sealed with the Official Seal of the Minister of Transport and deposited at the Ministry of Transport, St. Christopher House, Southwark Street, London, S.E.1. A certified copy has also been deposited at the offices of the Urban District Council of Gainsborough, Council Offices, Lord Street, Gainsborough, Lincolnshire.
4. This Order shall come into operation on the date on which notice that it has been made is first published in accordance with section 154(5) of the Town and Country Planning Act 1962, and may be cited as "The Stopping up of Highways (County of Lincoln, Parts of Lindsey) (No. 5 ) Order 1965".

Scaled with the Official Seal of the Minister of Transport the  
8th November 1965,

(L.S.)

C. H. Wykes

An Assistant Secretary of the  
Ministry of Transport.

THE SCHEDULE

The highway to be stopped up is in the Urban District of Gainsborough in the County of Lincoln, Parts of Lindsey. It is shown edged black on the deposited plan and is a length of the footpath leading from the eastern end of Hawksworth Street to Trinity Street, (A.159), starting at its junction with the said Hawksworth Street and extending eastwards for about 42 yards.

MINISTRY OF TRANSPORT

TOWN AND COUNTRY PLANNING ACT 1962

THE MINISTER OF TRANSPORT HEREBY GIVES NOTICE THAT HE HAS MADE AN ORDER UNDER S.153 OF THE ABOVE ACT ENTITLED "THE STOPPING UP OF HIGHWAYS (COUNTY OF LINCOLN, PARTS OF LINDSEY) (NO. 5) ORDER 1965" AUTHORISING THE STOPPING UP OF A LENGTH OF THE FOOTPATH LEADING FROM HAWKSWORTH STREET TO TRINITY STREET, GAINSBOROUGH.

COPIES OF THE ORDER MAY BE OBTAINED, FREE OF CHARGE, ON APPLICATION TO THE MINISTRY OF TRANSPORT, ST. CHRISTOPHER HOUSE, SOUTHMARK STREET, LONDON, S.E.1, (QUOTING THE REFERENCE HLL 70/24/016) AND MAY BE INSPECTED AT ALL REASONABLE HOURS AT THE OFFICES OF THE GAINSBOROUGH U.D.C., LORD STREET, GAINSBOROUGH, LINCS.

ANY PERSON AGGRIEVED BY THE ORDER AND DESIRING TO QUESTION THE VALIDITY THEREOF, OR OF ANY PROVISION CONTAINED THEREIN, ON THE GROUND THAT IT IS NOT WITHIN THE POWERS OF THE ABOVE ACT OR THAT ANY REQUIREMENT OF THAT ACT OR OF ANY REGULATION MADE THEREUNDER HAS NOT BEEN COMPLIED WITH IN RELATION TO THE ORDER, MAY, WITHIN 6 WEEKS OF THE 26TH NOVEMBER 1965 APPLY TO THE HIGH COURT FOR THE SUSPENSION OR QUASHING OF THE ORDER OR OF ANY PROVISION CONTAINED THEREIN.

G. H. WYKES.

AN ASSISTANT SECRETARY



HIGHWAY AT GAINSBOROUGH IN THE COUN  
OF LINCOLN, PARTS OF LINDSEY

