

Public Document Pack

When telephoning, please ask for: Democratic Services
Direct dial 0115 914 8511
Email democraticservices@rushcliffe.gov.uk



Our reference:
Your reference:
Date: 27 September 2023

To all Members of the Communities Scrutiny Group

Dear Councillor

A Meeting of the Communities Scrutiny Group will be held on Thursday, 5 October 2023 at 6:00pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West Bridgford to consider the following items of business.

This meeting will be accessible and open to the public via the live stream on YouTube and viewed via the link: <https://www.youtube.com/user/RushcliffeBC>
Please be aware that until the meeting starts the live stream video will not be showing on the home page. For this reason, please keep refreshing the home page until you see the video appear.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gemma'.

Gemma Dennis
Monitoring Officer

AGENDA

1. Apologies for Absence
2. Declarations of Interest
[Link to further information in the Council's Constitution](#)
3. Minutes of the Meeting held on 20 July 2023 (Pages 1 - 6)
4. Review of Canal and Rivers Trust Partnership Funding (Pages 7 - 58)
Report of the Director - Neighbourhoods
5. Social Housing Models (Pages 59 - 70)
Report of the Director - Neighbourhoods
6. Smoke Control Areas in the Borough (Pages 71 - 86)
Report of the Director - Neighbourhoods

Rushcliffe Borough
Council Customer
Service Centre

Fountain Court
Gordon Road
West Bridgford
Nottingham
NG2 5LN

Email:
customerservices
@rushcliffe.gov.uk

Telephone:
0115 981 9911

www.rushcliffe.gov.uk

Opening hours:
Monday, Tuesday and Thursday
8.30am - 5pm
Wednesday
9.30am - 5pm
Friday
8.30am - 4.30pm

Postal address
Rushcliffe Borough
Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG



7. Work Programme (Pages 87 - 88)

Report of the Director – Finance and Corporate Services

Membership

Chair: Councillor G Williams

Vice-Chair: Councillor L Plant

Councillors: M Barney, J Billin, S Ellis, G Fletcher, R Mallender, H Parekh and A Phillips

Meeting Room Guidance

Fire Alarm Evacuation: in the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble at the far side of the plaza outside the main entrance to the building.

Toilets: are located to the rear of the building near the lift and stairs to the first floor.

Mobile Phones: For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones: When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

Recording at Meetings

The Openness of Local Government Bodies Regulations 2014 allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Rushcliffe Borough Council is committed to being open and transparent in its decision making. As such, the Council will undertake audio recording of meetings which are open to the public, except where it is resolved that the public be excluded, as the information being discussed is confidential or otherwise exempt



**MINUTES
OF THE MEETING OF THE
COMMUNITIES SCRUTINY GROUP
THURSDAY, 20 JULY 2023**

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West
Bridgford

PRESENT:

Councillors G Williams (Chair), L Plant (Vice-Chair), M Barney, J Billin, S Ellis,
G Fletcher, R Mallender, H Om and H Parekh

OFFICERS IN ATTENDANCE:

D Burch	Service Manager Neighbourhoods
G Carpenter	Service Manager Public Protection
A Cliff	Empty Homes Officer
R Cottee	Revenues and Benefits Principal Officer
E Richardson	Democratic Services Officer

APOLOGIES:

Councillors A Phillips

1 Declarations of Interest

There were no declarations of interest.

2 Minutes of the Meeting held on 16 March 2023

The minutes of the meeting held on 16 March 2023 were approved as a true record and were signed by the Chair.

3 Role and Remit of Communities Scrutiny Group

The Chair presented the terms of reference for the Communities Scrutiny Group to Members noting that the purpose of the Group was to positively and proactively contribute to the ongoing success and good management of the Council.

He said that the Group would achieve this by:

- Reviewing the Council's partnerships to ensure that community needs were being met and the partnership was providing good value for money
- Identifying areas of community concern, exploring how this could be met and make recommendations to that effect
- Consider concerns specific to the local area in terms of health and wellbeing and make recommendations to improve the health and wellbeing of local residents
- Consider projects and initiatives to further the Council's efforts to protect the environment of the Borough and promote environmental

- sustainability to our residents
- Reviewing the Council's policies and strategies as appropriate prior to adoption.

4 Review of the Empty Homes Strategy and Council Tax Implications

The Service Manager for Public Protection presented the report of the Director for Neighbourhoods and noted that as the Empty Homes Strategy was due for renewal at the end of 2023 it was timely for it to be reviewed by the Group today to help shape and form the Strategy going forward.

The Service Manager for Public Protection explained that whilst the empty homes function of Environmental Health work was discretionary, the impact was so great that the Council considered it necessary and valuable. He said that in 2019 there were over 500 empty properties across the Borough and that empty homes could be detrimental to the community through attracting vandalism, fly tipping, criminal and anti-social behaviours and could reduce the value of neighbouring properties.

The Service Manager for Public Protection said that bringing properties back into use assisted in meeting housing needs and improved the housing stock within the Borough and helped to regenerate blighted areas. They also contributed to the Council's income through Council Tax contributions and Empty Homes Bonus.

The Service Manager for Public Protection said that it was not expected that the Government would make any significant changes to legislation, nor did the Council anticipate making significant changes to the Strategy subject to feedback from the Group. He referred the Group to suggested areas for review at paragraph 4.22 of the report.

The Empty Homes Officer explained that the Empty Homes Strategy was first implemented by the Council in April 2019 and at the same time it employed a part-time dedicated Empty Homes Officer. He said that early work involved creating processes and procedures and launching the website to provide a first point of reference.

The Empty Homes Officer highlighted key achievements since 2019, being that:

- 74 problematic homes had been returned into use with intervention from the Council
- 2,400 properties had returned to use without intervention but likely impacted by communications from the Council
- 61 enforcement notices had been issued by the Council
- The Council had developed a comprehensive database of all empty homes across the Borough
- Stricter enforcement procedures had been adopted, one enforced sale had been completed and four further enforced sales were progressing.

The Empty Homes Officer said that the number of long term empty homes had reduced from 511 at 2019 to 465 in 2023 and that on average 10% of long term empty homes were removed from the database every month, with a similar

amount added. He said that the Borough remained below the national average of 1.02% for long term empty home against dwellings, standing at 0.83%.

The Revenues and Benefits Principal Officer provided a summary of Council Tax levies on empty homes, explaining that empty homes were deemed to be where they were not a person's main home. He said that people could own as many homes as they wished but could only live in one main home. He explained that the classification for second homes were homes that were suitable for overnight accommodation but which did not need to be stayed in. He said that second homes were excluded from the premium.

The Revenues and Benefits Principal Officer said that the Council had started levying the premium on unoccupied and unfurnished properties in April 2018 and that the premium was levied on the property and carried forward if ownership changed. He detailed the revenue generated from the premium, of which the Council could retain approximately 10%, and noted a proposed legislative change to bring in the option to charge the premium on second homes after one year.

The Empty Homes Officer informed the Group that the Council currently had 46 properties classified as a high priority, that eight of those were expected to be returned to use within the next three months and the Council proposed pursuing empty property management orders on three properties imminently. He confirmed that the Council was progressing a number of enforced sales, was engaging with owners on a further 20 priority properties and that enforcement action was being progressed for all of the top ten priority cases.

The Empty Homes Officer took the Group through a variety of case studies, including a badly damaged house in West Bridgford which had resulted in a successful enforced sale, from which the Council could recover fees for work and officer time.

The Group thanked Officers for the update and for their excellent work and thought that there was much benefit to the community in bringing houses back into use. The Group asked whether having more resource would be helpful.

The Empty Homes Officer said that his role was reactionary but that more resource would enable more proactive work and an increased number of empty properties being dealt with.

The Empty Homes Officer explained that the unfurnished versus unoccupied distinction was purely for Council Tax purposes and did not impact on whether he would investigate a property as a possible empty home. He added that there was no specific type of reason, nor debt, required for him to initiate inquiry into a property and that investigation could emanate from a reported issue. He said that the Council could take action on any property within the Borough, including those owned by the public sector, although it could not serve notice on itself.

Members of the Group noted that the existing Strategy was working and bringing properties back into use and asked whether there were any changes that could be made to improve that further. The Empty Homes Officer

explained that the Council had to work within the legal frameworks available to it and that it was using all the tools that were available to it currently.

The Group asked about the rates of Council Tax charged and support available for owners. The Revenues and Benefits Principal Officer explained that the Council levied a 50% charge for properties that became unfurnished for 28 days rising to a full charge for up to two years. He said that the Council offered a S13A relief application for owners experiencing exceptional circumstances. The Empty Homes Officer said that the Council carried out extensive research and would tailor its approach for each property and while the Council did not provide financial aid he would signpost to relevant support and associations where applicable, including both internal departments and external organisations.

In relation to the percentage of the premium income received by the Council, the Revenues and Benefits Principal Officer explained that this was determined by the level of precept allocation retained by the Council and similarly for parish councils also.

The Group referred a property becoming classified as empty after six months and thought that this could be due a variety of reasons, such as for renovations. The Empty Homes Officer confirmed that whilst he would write to the owners of the property to ask if they required any assistance, these properties would go the bottom of the list and would only become a priority if still empty after a long period of time.

In relation to furnishing a property to avoid classification as an empty home, the Empty Homes Officer said that it would be possible for the Council to investigate and argue at court that it had been furnished for that reason only.

In response to a question about Empty Dwelling Management Orders (EDMO) the Empty Homes Officer said that an EDMO was one of a selection of tools available to the Council and the only one specifically designed for empty homes compared to others which came, for example, from planning and housing legislation. He explained that to qualify for an EDMO a property had to have been empty for two years and would then need to be refurbished by the Council at its own cost, with costs only recoverable within a seven year period. The Empty Homes Officer said that if the Council thought it unlikely that the rental income within the seven year period would cover the refurbishment costs the Council would look to take a different approach.

The Chair asked about interaction with the Planning Department and the Empty Homes Officer said that he would get involved when there was an issue with a property and when planning permission had been granted but not started, that he could contact the owner to see if they were experiencing any problems and with owners' permission could discuss the application with the Planning Team.

In relation to the website the Empty Homes Officer confirmed that it was continually reviewed and updated but said that it was hard to know how many people were using it. In relation to it generating referrals, the Group were informed that information was received through a wide variety of routes and

sources, including Councillors, residents and partner agencies, often triggered by social media communications and it was noted that 99% of complaints were about properties already known to the Council.

In relation to a decrease in empty homes compared to an increase in charges, the Revenues and Benefits Principal Officer explained that this was due to changes in legislation increasing the premium chargeable.

The Group asked about comparative data from before Empty Homes Strategy to now and the Empty Homes Officer said that prior to 2019 the Council would respond to specific complaints about specific properties, such as to deal with vermin, with no longer term involvement specifically related to the property being empty. The Group was informed that the Council was now able to investigate deeper and have longer term involvement focussed on resolving the empty home rather than just the initial short-term problem.

In relation to probate, the Group was informed that the Council would only become involved six months after a property had gone through probate and recognised that it was important to be sensitive to emotional attachment to a property and to take care in exploring future intentions for the property.

Councillor Billin asked whether the Strategy could place greater emphasis on the fact that the Strategy would resolve housing need.

Members of the Group noted the complexity of some empty homes cases and the time involved and suggested that increasing the amount of resource allocated to this work, perhaps by making the post fulltime, could increase the number of houses brought back into occupation. The Group suggested that the additional resource would generate more revenue for the Council than it would cost. In response, the Service Manager for Neighbourhoods suggested that rather than the Group proposing a full time post he would feedback that the Group would like to see more empty homes dealt with in a quicker timescale and that the Group understood this would need additional resourcing but would need to be considered in the overall priorities of the council and resources available and reminded members that this was a discretionary service.

The Chair summarised that the Group had reviewed and considered the questions set out in the report and had discussed the potential changes to the law for empty home premiums.

The Chair highlighted that the Group asked the Council to consider its resourcing for work on empty homes to review how it could increase the number of properties that could be brought back into occupation more quickly. The Chair asked for feedback to be provided to the Group.

It is **RESOLVED** that Communities Scrutiny Group considered and provided feedback on the information provided to shape forthcoming revisions to the Empty Homes Strategy.

5 **Work Programme**

Councillor Barney referred to the work programme item for Flight Paths

scheduled for the January 2024 meeting and suggested that as this would likely be a large item there would be merit in making this the only agenda item for that meeting. He also suggested that Councillor A Brown be invited to attend the meeting as he represented the Council on the Independent Consultative Committee.

It was RESOLVED that the Group agreed the work programme for the year 2023 – 2024 as set out below, with the recommendation that the Corporate Overview Group review the scheduling of the Community Facilities report in January to see if it could be scheduled for a different meeting.

5 October 2023

- Social Housing Models
- Work Programme

18 January 2024

- Flight Paths
- Use of Community Facilities (TBC)
- Work Programme

21 March 2024

- Carbon Management Plan Update
- Streetwise In-Sourcing
- Work Programme

Action Table – 20 July 2023

Min No.	Action	Officer Responsible
4	the Group asked the Council to consider its resourcing for work on empty homes to review how it could increase the number of properties that could be brought back into occupation more quickly and to provide feedback to the Group	Service Manager for Neighbourhoods

The meeting closed at 8.21 pm.

CHAIR



Communities Scrutiny Group

Thursday, 5 October 2023

Review of Canal and River Trust Partnership Funding - Grantham Canal Service Level Agreement

Report of the Director - Neighbourhoods

1. Purpose of report

- 1.1. This report is to inform Councillors as to how the Council is working with the Canal and River Trust (CRT) with particular focus on the Access Agreement between RBC and the CRT for the Grantham Canal. The agreement runs from 1 April 2003 for 21 years, expiring on 31 March 2024.
- 1.2. A representative from the CRT will provide a presentation to the Group summarising the current agreements with the Council and setting out their future strategic ambitions beyond the expiry of the existing agreement in 2024.
- 1.3. Communities Scrutiny Group is requested to comment on the CRT partnership's delivery (Service Level Agreement - SLA) and make comment on future service levels post 2024 so this can be fed into the 2024/25 budget setting workshops.

2. Recommendation

It is RECOMMENDED that Communities Scrutiny Group:

- (a) receive a summary presentation of the work that has been undertaken by the Council in partnership with the Canal and River Trust
- (b) make comment on the strategic ambitions of the CRT for any future Service Level Agreement and the associated funding required for this work.

3. Reasons for Recommendation

- 3.1. The CRT has achieved the outcomes set out within the Agreement and continued access to the route remains open to all users.
- 3.2. The current SLA ends in March 2024 and the Council needs to consider whether to stop, reduce, maintain at existing levels, or increase the commitments under the SLA with the CRT for future years and the length of any such commitments.

4. Supporting Information

- 4.1. The CRT was formed in 2012 in the largest ever transfer of public assets to the voluntary sector. The purpose of the Trust is to protect, manage and improve the nation's canals and river navigations for the millions who enjoy them.
- 4.2. The CRT own the Grantham Canal and tow path and whilst it has a statutory duty to maintain it as a "remainder waterway", through partnership working with the Council the parties have sought to improve it further for the purposes of achieving a shared objective: to provide an 18km off-road, multi-user route through the Borough for pedestrians, cyclists and users of manual and motorised wheelchairs/scooters.
- 4.3. The Council has been working with the CRT (formerly British Waterways) on Grantham Canal via various projects since 1992; upgrading and improving accessibility to all users of the tow path, a route which runs from Gamston to the edge of the Borough boundary with Melton, near Hickling.
- 4.4. The capital schemes over this period have included: widening the tow path to two metres, resurfacing, bank protection, installing footbridges, ramp improvements, bins, signage and motorbike barriers.
- 4.5. In 2003, an SLA between the parties secured provision of the future maintenance of the route, with the CRT undertaking all works and the Council providing a financial contribution at an agreed rate. The agreement also provided a licence to the Council to grant open access to the route for all users.
- 4.6. The partnership has enabled the significant improvement of the route to be created, maintained and open to all users since 2003. It provides Rushcliffe residents with a non-road alternative means of accessing the Borough and provides a route for recreational use.
- 4.7. In 2022, the CRT delivered a project using £27,416 grant funding from the UK Shared Prosperity Fund (UKSPF) to undertake a series of reed clearance works by removing excessive reed growth in a 13ft (four metre) wide channel across the middle of the canal at sites in Kinoulton, Hickling, Cotgrave, Gamston and Lady Bay. The channel provided clear water, for fish, dragonflies and other aquatic plants as well as improving water flow.

Summary of the Partnership Agreement

- 4.8. Under the terms of the Partnership Agreement, the CRT will:
 - Give Rushcliffe Borough Council licence to use the multi-user path for recreational purposes for all pedestrians, cyclists, and wheelchair/motorised mobility scooter users
 - Maintain the surfaced multi-user path and verge, pedestrian and cycle routes and timber pedestrian footbridge

- Maintain the street furniture, including bins and motorcycle barriers.

Achievements and Outcomes of the Partnership

- 4.9. A representative from the CRT will provide a presentation detailing the work they have undertaken in maintaining the accessible route along Grantham Canal, but the agreement is largely focussed on towpath management and hedge management (Background paper for inspection).
- 4.10. A representative from the CRT will provide detail in the presentation of a range of options; these being the option not to renew the agreement and the implications of this, renewal at the current service level of hedge and towpath management (status quo) or an enhanced service level agreement to include a programme of working such as reed management, operational management support, wellbeing activities and a programme of education and events targeting local school pupils.

5. Risk and Uncertainties

- 5.1. The current agreement ends in March 2024 and the Council is reviewing the current agreement and seeking comments regarding any potential new agreement beyond 2024.
- 5.2. Whilst there is budget in place for the agreement, due to the current climate of increasing costs and inflation there is a risk going forward the cost of this service could increase, which could cause pressure on budgets or negatively impact quality of service provided. As part of any review, a prioritisation of objectives and outcomes should be undertaken prior to extension or acceptance.
- 5.3. The CRT have also provided an estimate for culvert repairs and lock improvement, but these have been costed separately as distinct projects should the Council wish to pursue these options.

6. Implications

6.1. Financial Implications

- 6.1.1. The payment to British Waterways in 2003 was for £16,704 and the existing agreement allows for an annual uplift in accordance with civil engineering indices. In 2022/23 the payment to CRT was £45,169.82 and is currently contained within the medium-term financial strategy (MTFS).
- 6.1.2. Should the Council resolve to enter a future agreement it should follow the Consumer Prices Index (CPI) and not civil engineering indices to be in line with council policy, in addition the length of any new agreement should not exceed 5 years in line with the MTFS and should include the option of a break clause for either party.

6.1.3. The Council's is currently preparing the draft MTFS for 2024/25 to 2028/29. Any enhancements to the CRT partnership and SLA would result in a budget pressure and should therefore be considered in the context of budget setting and the wider economic environment.

6.2. **Legal Implications**

6.2.1. The Agreement with CRT was established and reviewed with the Council's Legal Services team and expires in March 2024.

6.3. **Equalities Implications**

6.3.1. Restriction free access to recreation green and blue spaces is promoted to all residents and can help to address issues relating to equality, diversity, mental and physical health, and wellbeing. Recent research from the King's College London, Norman Projects and J & L Gibbons found that being by water left people feeling happier and healthier, and that this connection was stronger than time spent in an environment that is characterised by only green space.

6.3.2. Andrea Mechelli, Professor of early intervention in mental health at King's College, stated that Canals and rivers contain not only water but also an abundance of trees and plants, which means their capacity to improve mental wellbeing is likely to be due to the multiple benefits associated with both green and blue spaces. "Canals and rivers also provide homes to a range of wildlife, and we know from other research that there is a positive association between encountering wildlife and mental wellbeing. "Taken collectively, these findings provide an evidence base for what we intuitively thought about water and wellbeing and support the proposal that visits to canals and rivers could become part of social prescribing schemes, playing a role in supporting mental health."

6.4. **Section 17 of the Crime and Disorder Act Implications**

6.4.1. The partnership has worked to reduce crime and anti-social behaviour and in particular the restriction of motorised vehicles on the tow path.

6.5. **Biodiversity Net Gain Implications**

6.5.1. The Grantham Canal is a listed green and blue infrastructure site, identified in the Greater Nottingham Blue and Green Infrastructure Strategy January 2022, which has biodiversity value and will be a key site for offsite biodiversity net gain enhancement when the duty comes into effect. It has also been identified in the Rushcliffe Core Strategy for land East of Gamston/North of Tollerton strategic development site for an enhanced green corridor for biodiversity enhancements.

7. Corporate Priorities

The Environment	The access agreement and budget to support delivery, are all designed to provide wellbeing services, through walking and cycling opportunities, access to green and blue space and safeguard the natural environment through improved sustainable management and to support our carbon reduction objectives
Quality of Life	Access to green and blue spaces contributes to improvements in public health for example through; walking and cycling opportunities, improved nature conservation and biodiversity, and by sequestration of carbon; all of which have a profound influence on quality of life.
Efficient Services	On-going management of access agreements ensures that they can be updated and adapted to reflect our corporate priorities and ensure prudent financial management
Sustainable Growth	The Grantham Canal is a green lung which snakes it way throughout the Borough and should be protected as the Borough develops to ensure sustainable growth. The canal is adjacent to the new proposed development at Tollerton and development in Cotgrave.

8. Recommendations

It is RECOMMENDED that Communities Scrutiny Group:

- (a) receive a summary presentation of the work that has been undertaken by the Council in partnership with the Canal and River Trust
- (b) make comment on the strategic ambitions of the CRT for any future Service Level Agreement and the associated funding required for this work.

For more information contact:	Dave Banks Director of Neighbourhoods Tel: 0115 9148438 dbanks@rushcliffe.gov.uk
Background papers Available for Inspection:	Agreement between Rushcliffe Borough Council and Canal and River Trust 2003
List of appendices (if any):	Scrutiny Matrix British Waterways Board Service Level Agreement

This page is intentionally left blank

Rushcliffe Borough Council – Scrutiny Matrix

Officer Request for Scrutiny	
Darryl Burch – Service Manager Neighbourhoods	
Proposed topic of scrutiny ...	Review of Canal and Rivers Trust Partnership Funding
I would like to understand ... (key lines of enquiry)	<p>The Access Agreement between Rushcliffe Borough Council and the Canal and Rivers Trust (CRT) for the Grantham Canal is due to expire in 2024.</p> <p>On 21 July 2022 the Communities Scrutiny Group received a presentation from the CRT regarding performance of the SLA. The Group requested that the item was brought back to scrutiny to enable them to provide comments and help share any future SLA agreement once the current arrangements come to an end.</p> <p>Councillors are, therefore, asked to review performance for the previous monitoring period and make comments on future SLA arrangements and future funding commitments which can be recommend to Cabinet for approval once the current arrangements come to an end.</p> <p>The Government has recently announced a long-term funding settlement for the CRT for the period from 2027 to 2037, to follow on from the current grant agreement. The amount awarded represents a reduction nationally in its funding of over £300 million in real terms over the ten-year period.</p> <p>It represents almost a halving of real-terms public funding for canals in the ten years from 2027 compared with recent years.</p> <p>The Grantham Canal links to the Council’s Corporate Strategy as canals are shown to deliver substantial benefits to the economy, to community</p>

	health and wellbeing, and to nature and biodiversity.		
I think this topic should be scrutinised because ... (please tick)	<input type="checkbox"/>	Poor Performance Identified	
	<input checked="" type="checkbox"/>	Change in Legislation or Local Policy	
	<input type="checkbox"/>	Resident Concern or Interest	
	<input type="checkbox"/>	Cabinet Recommendation	
	<input checked="" type="checkbox"/>	Links to the Corporate Strategy	
	<input type="checkbox"/>	Other (Please state)	
Officer Consideration of Request for Scrutiny			
Officer Feedback (please tick)			
- Issue already being addressed	<input checked="" type="checkbox"/>	Issue of a complaint investigation	<input checked="" type="checkbox"/>
- Issue has already been considered in the last 2 years?	<input checked="" type="checkbox"/>	Issue is a staffing matter	<input checked="" type="checkbox"/>
- Issue is a legal matter	<input checked="" type="checkbox"/>	There is an alternative way of dealing with the issue	<input checked="" type="checkbox"/>
Is there sufficient capacity ...			
- Scrutiny Work Programme?	<input checked="" type="checkbox"/>		
- Officer Resources?	<input checked="" type="checkbox"/>		
Recommendation	Schedule for Scrutiny		
Consideration of Request for Scrutiny at COG			
Public Involvement / engagement?			
Expert witnesses?			
Portfolio holder?			
Lead Officer?	Derek Hayden		
Proposed Timescale for Scrutiny and Scrutiny Group	October 2023 for Communities Scrutiny Group		

DATED

4th July

2003

BRITISH WATERWAYS BOARD

and

RUSHCLIFFE BOROUGH COUNCIL

LICENCE

To carry out construction of Multi-User Path with
access improvements adjoining the Grantham Canal between
Lady Bay Bridge Nottingham and The Smite Aqueduct Nottingham

~17163~

Nigel I Johnson
Legal Director
BRITISH WATERWAYS BOARD
Willow Grange
Church Road
Watford
WD17 4QA

JOH/CX229Licence

THIS LICENCE is made the 4th day of July Two Thousand and Three BETWEEN BRITISH WATERWAYS BOARD whose principal office is situate at Willow Grange Church Road Watford Hertfordshire WD17 4QA (hereinafter called "the Board") of the one part and RUSHCLIFFE BOROUGH COUNCIL of Civic Centre, Pavilion Road, West Bridgeford, Nottingham NG2 5FE. (hereinafter called "the Council") of the other part

WHEREAS

- (i) The Council wish to carry out the construction of a Multi-User Path between Lady Bay Bridge Nottingham Ordnance Survey No SK587383 and Smite Aqueduct Ordnance Survey No SK715295 in the County of Nottinghamshire.
- (ii) The Board is (inter alia) the freehold owner of the Canal and the Towing Path and has (inter alia) statutory powers to provide and enhance canal and navigation facilities for users of its waterways.
- (iii) The Council and the Board have agreed subject to the terms set out in this Licence to undertake a programme of works to improve the Towing Path and access points as a multi-user recreational facility as set out in Schedule 1 hereto ("the Works").

IT IS HEREBY AGREED as follows:

1. Definitions

In this Licence the following words and expressions shall have the meanings set out alongside those words and expressions:

"the Plans" The plans annexed hereto and referred to in Appendix 1 to Schedule 1.

"the Canal"	Grantham Canal which is for the purpose of identification only is shown included within the green lines on the Plans
"Multi-User Path"	A surfaced path extending to a depth of 200mm to be constructed on the towing path adjoining the Canal between Lady Bay Bridge Nottingham Ordnance Survey number SK587383 and Smite Aqueduct Ordnance Survey number SK715295 for recreational use as a pedestrian route a recreational cycleway and where reasonably practicable to allow for disabled access.
"the Licence"	Such licence as is granted by virtue of clause 3 below.
"the Towing Path"	That part of the Board's property which comprises both the towing path and adjoining land and is for the purpose of identification only shown included between green lines on the Plans and which expression shall include the Multi-User Path where constructed over the same and reference to the Towing Path shall include any part of it.

2. Commencement and Term

This Licence and Authority will come into force on the First day of April 2003 and will be for a period of 21 years from the date thereof.

3. Grant of Licence

3.1.1 In consideration of the agreements on the part of the Council and the conditions hereinafter contained the Board so far as they can and lawfully may hereby grant to the Council licence and authority for: -

3.1.2 Use of the surfaced area of Multi-User Path for recreational use as a pedestrian route by able bodied and disabled persons including use of approved powered wheelchairs but all subject to the natural gradients of the Towing Path where in the reasonable opinion of the Board they cannot be re-graded to those recommended for disabled use.

3.1.3 Use of the surfaced area of Multi-User Path for the passage of pedal bicycles for recreational and rural transport purposes only PROVIDED THAT and for the avoidance of doubt such use shall exclude cycle racing or organised cycle events unless otherwise first agreed in writing between the Board and the Council

4. Permissions

The use of the Multi-User Path under this Licence is permissive only and such use shall not be deemed to be or become public rights of way.

5. Access Points

The Board shall determine and provide from time to time access points (the location of which shall be entirely at the Board's discretion) to the Towing Path for persons using the Towing Path under this Licence.

6. Rights Reserved

The Board expressly reserves the right at all times to:

6.1 use the Towing Path and carry out works thereon for all purposes but without prejudice to the generality of the foregoing the right of access over and along the Towing Path and any part of it with or without vehicles and authorising all such others to do so.

6.2 grant other licences or agreements for the use of the Towing Path PROVIDED THAT such licences or agreements do not substantially or permanently interfere with the exercise of the Licence

6.3 carry out its powers and duties including the right to obstruct or close the Towing Path whenever required for the purposes of navigation, engineering and maintenance operations in connection with authorised uses of the Canal and Towing Path or for the installation by the Board or by others of apparatus beneath the surface of the Canal and Towing Path including without prejudice to the generality of the foregoing telecommunications apparatus and cables.

6.4 to close and divert the Towing Path for such period or periods of time as the Board, acting reasonably, shall at its discretion require upon the happening of any occurrence which makes continued use of the Towing Path unsafe.

7. Towing Path Works

7.1 Where the Board intends to obstruct close or divert the Towing Path or authorise its obstruction closure or diversion or remove any of the Works for any reason it shall first give written notice to the Council (save in case of emergency) and shall use its reasonable endeavours to consult with the Council to minimise any disruption which may be caused by such obstruction closure or diversion, and except where urgent action is required to be undertaken by the Board, the Board shall give such notice of such action as is reasonable in the circumstances.

7.2 If at any time the Board carries out or authorises works of whatever nature to the Towing Path, (other than those authorised hereunder) it shall so far as reasonably practical secure reinstatement of the Towing Path to the condition in which it was before carrying out any such works.

8. Items on Towing Path

The Council may at its own cost subject to the prior written approval of the Board, such consent not to be unreasonably withheld and which may be subject to conditions imposed by the Board: -

8.1 erect and maintain on the Towing Path notices, seats, litter receptacles, lifebuoys and stands, stiles, motorcycle barriers and access points additional to those within the Works and

8.2 plant and cultivate appropriate parts of the Towing Path.

9. Title to Items

Title in such items as may be fixed on the Towing Path by virtue of Clause 8 shall remain with the Council who shall be responsible for their maintenance, renewal and repair and (unless the Board otherwise agree) shall be removed by the Council on or before the termination of this Licence and any damage done made good to the reasonable satisfaction of the Board.

10. Alterations

Subject to the provisions of 8 the Council shall not cause or permit to be made any alteration in the position or structure or otherwise of the Works without the prior written consent of the Board

11. Rights of Support

Save for the maintenance works referred to in Schedule 5 nothing herein contained shall be deemed to give to the Council a right of lateral or subjacent support for the Works or render the Board liable for any damage which may happen to the same

12 The Works

12.1 The Council and the Board shall carry out or pay all, (or a proportion) of the costs of the Works set out in Schedule 1 (including works of maintenance) as has been agreed between the parties and as provided for in sub-clauses 12.2 to 12.4 inclusive and sub-clauses 15.1, 15.2 and 15.4.

12.2 The Board shall undertake to carry out that part of the Works which are set out in schedule 2 which include the construction of a granular surfaced towpath between Cotgrave Road and Hollygate Lane near Cotgrave.

12.3 The Council shall undertake to carry out that part of the Works which are set out in schedule 3 at its own costs.

12.4 The Board shall undertake to carry out that part of Works set out in schedule 4 at its own cost.

13 Cycling Code

13.1 The Council shall erect and maintain at its own cost notices as specified by the Board to inform users of the Towing Path of the Board's Code for Cyclists and other information relating to cycling on the Board's towing paths.

13.2 The Licence shall be subject to the person or persons using the Towing Path complying in all respects with any bye-laws and rules of conduct for the time being in force including but without prejudice to the generality of the foregoing cyclists having a cycling permit from the Board (whether or not it is free) if required by the Board PROVIDED THAT the Board in its absolute discretion shall be entitled to restrict or prevent the use of the Towing Path by any person who has contravened the provision of such bye-laws or rules of conduct.

14 Assignment

14.1 Except as provided in Clause 14.2 the Council shall not assign sub-licence or otherwise part with the benefit of this Licence.

14.2 The Council shall not assign the whole of this Licence without the previous written consent of the Board (such consent not to be unreasonably withheld)

14.3 The Council shall procure that prior to any assignment the assignee enters into a written agreement with the Board to perform and observe all the agreements and conditions on the Council's part contained in this licence

15. Maintenance

- 15.1 For the duration of this licence the Board shall undertake the maintenance works set out in Schedule 5.
- 15.2 For the duration of this licence the Council shall undertake the maintenance works set out in Schedule 6 but such works will be implemented on behalf of the Council by the Board. In consideration of the same the Council will make an annual payment of £928.00 plus value added tax per kilometre of that part of the Multi-User Path referred to in paragraph 1 of Schedule 6 such annual payment to be updated annually based on the monthly bulletin of indices dated May 2002 (civil engineering formula Index no.1) published by the Department of the Environment. The Board will submit to the Council an invoice for the amount due for payment on 30th September in each year and the Council shall pay the amount due to the Board within 28 days of the date of the invoice. If the Board fails to implement the maintenance works in so far as they relate to maintaining the Multi User Path in a safe condition and in good repair commensurate with its use the Council shall be entitled to give the Board notice specifying the work to be done. If the Board fails to respond to the notice within 28 days of it being served on the Board the Council shall be entitled to carry out such works and recover the reasonable costs of so doing from the Board.
- 15.3 If it becomes impossible to make the calculation required in clause 15.2, then the updated payment may be agreed at any time between the parties or, in the absence of agreement, shall be determined by a single arbitrator pursuant to Clause 15, who shall ascertain what would have been the up-dated annual payment, based on the monthly bulletin of indices mentioned in Clause 15, had it continued on the same basis.
- 15.4 For the duration of this licence the Council and the Board shall jointly undertake the maintenance works set out in schedule 7.

15.5 If the Council fails to carry out any of its obligations under this Licence the Board shall give the Council written notice of default specifying the work to be done.

15.6 If the Council shall fail to respond to such a notice of default stated at 15.5 above within twenty-eight days of it being served on the Council the Board shall be at liberty to carry out the works described in the notice of default and recover the costs forthwith of so doing from the Council.

15.7 If the Board fails to carry out its obligations under 15.1 the Council shall give written notice of default specifying the work to be done

16. Interference with Navigation

The Council shall not do or permit to be done anything which may cause any interference with navigation upon the Canal

17. Preservation of Rights

17.1 The Council shall endeavour to ensure that the exercise of the Licence does not cause any nuisance to or interference with the Board or its licensees

17.2 The Licence shall be without prejudice to any existing rights of way over and along the Towing Path which may be shown to have been established prior to the execution of this Licence.

18. Arbitration

In the event that any dispute or difference arises between the Board and the Council as to the construction of this Licence or otherwise in respect of the carrying on of the same into effect the matter shall be referred to the arbitration of a single arbitrator to be agreed between the Board and the Council or in default of agreement to be appointed by the President for the time being of the Institution of Civil Engineers in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment of it for the time being in force.

19. Rights and Duties Reserved

Nothing in this Licence shall prejudice or fetter the proper exercise of any function or duty or power of the Council or the Board or the officers of either.

20. Special Act or Order

Nothing herein contained shall prejudice or affect any provision for the protection of the Board or included in any Special Act or Order

21. Works by Council

The Council shall comply with the Board's "Code of Practice for Works affecting British Waterways" (including any relevant 'Special Requirements' supplemental to the Code and any relevant appendices from time to time in force) in respect of any works carried out by the Council under this Licence.

22. Indemnity

22.1 The Council shall obtain sufficient public liability insurance cover and will indemnify the Board against all costs claims demands and damages of whatever nature occurring (except where caused by the negligence of the Board or their servants or agents) through the use of the Towing Path (including use by members of the public) and the exercise of the Council of its licence and authority under this licence.

22.2 The Council will make all necessary arrangements with and satisfy all claims by the owners, or occupiers of land adjoining the Towing Path and any other person who may be affected by this Licence and fully and effectually indemnify the Board from and against any such claims by such persons

22.3 The Board hereby indemnifies the Council against any cost claims demand or damage arising out of or in connection with the exercise by

the Board of any of its functions under this Licence (except where caused by the negligence of the Council its contractors servants or agents).

23. Footbridge and Alteration

If and so often as the Board shall for the purpose of their undertaking require the position of the footbridges referred to in paragraphs 2 and 3 of Schedule 3 or any part thereof to be altered or the said footbridges removed entirely the Council shall at its own expense under the supervision and to the reasonable satisfaction of the Board's engineer and in accordance with plans details and specifications previously approved in writing by the Board's engineer remove or alter the said footbridges or such part thereof as required and shall (except where the same is being removed entirely from the waterway) replace or reconstruct the same in such other position as notified to the Council and the provisions of this licence shall apply to such removal alteration or replacement and to the said footbridges as removed altered or replaced as the case may be.

24. Plans

Works to be carried out between the Lay Lady Bridge and Gamston Bridge section referred to in Schedule 1 which have not been indicated on the Plans and any additional works agreed between the parties shall upon the completion of such works be indicated on 'as built' plans and shall form part of a supplemental agreement to be entered into between the parties which shall incorporate such additional agreed works within the terms of the Licence.

25. Notices

Any notice which under the provisions of this Licence is to be given to the Board shall be deemed effectively served if addressed to the Board and served on the Waterway Manager, Sawley Marina, Sawley, Nottinghamshire NG10 3AE, or such other person as the Board may from time to time designate and any notice in writing that is to be given by the Board to the Council shall be deemed effectively served if sent through the post in a registered or recorded delivery letter addressed to the Council at its last known address.

26. Interpretation

- 26.1 In this licence if any party at any time comprises 2 or more persons the obligations of that party are to the joint and several obligations of those persons.
- 26.2 Words in one gender include all other genders. Words in the singular include the plural and vice versa and any reference to a person includes reference to a Company or Authority Board Department or other body.
- 26.3 The clause headings do not form part of this Licence and are not to be taken into account for the purposes of its structural interpretation
- 26.4 Reference to a clause without further designation is to be construed as a reference to the clause of this licence so numbered.

IN WITNESS whereof the duly authorised representatives of the parties have signed this Licence on the day and year first written above.

THE PLANS ANNEXED – Appendix to Schedule 1

The Plans including details of the Board's canal and towpath land ownership between Lady Bay Bridge and Smite Aqueduct. Nottinghamshire within the Rushcliffe Borough boundaries Ref SK 587383 and SK 715295.

SCHEDULE 1

The Works

Canalside and Towpath and access Improvements between Lady Bay Bridge Nottingham and Smite Aqueduct.

The works as identified on the Plans.

- 1.1 Canalside granular surfaced Multi-User Towpath improvements between Lady Bay Bridge Nottingham and The Smite Aqueduct.

- 1.2 Street furniture, litter and dog fouling bins and Anti Motorcycle barriers at locations indicated on the Plans.
- 1.3 Tarmac surfaced access improvements at including connection between the public highway and The Board's towpath at locations indicated on the Plans.
- 1.4 Pedestrian and cycle route signing at locations to be agreed on site by the Council and the Board.
- 1.5 Timber pedestrian footbridge crossing the Canal at Gamston.
- 1.6 Ramp improvements and revetment support at Irish Jacks and Blue Hills Bridges.
- 1.7 Environmental works including hedge management and additional hedge planting Lady Bay Bridge to Gamston.
- 1.8 Vegetation clearance from the Canal bed Cropwell Bishop.
- 1.9 Fencing to the off-side of the Canal off side between Hog Hill Swing Bridge and Cropwell Roving Bridge.
- 1.10 Pedestrian footbridge with handrail Lock 10 (upstream of A46 Road) and granular surface of car parking area.
- 1.11 Waterway wall repairs Cropwell Roving Bridge.
- 1.12 Towpath surface works, hedge planting and other access improvements between Cotgrave Road and Hollygate Lane referred to within the Cotgrave SRB scheme.
- 1.13 Bank protection works as required to enable the construction of a granular towpath wherever reasonably practical 2m wide.

SCHEDULE 2

The works to be undertaken by the Board

1. Bank protection works as required to enable the construction of a granular towpath wherever reasonably practical 2m wide.
2. Towpath construction between Lady Bay Nottingham and Cotgrave Road Nottinghamshire. Hollygate Lane to Smite Aqueduct Nottinghamshire.
3. Street furniture, litter and dog fouling bins and Anti Motorcycle barriers at locations indicated on the Plans.
4. Tarmac surfaced access improvements at including connection between the public highway and the Towing Path at locations indicated on the Plans.
5. Ramp improvements and revetment support at Irish Jacks and Blue Hills Bridges.
6. Environmental works including hedge management and additional hedge planting Lady Bay Bridge to Gamston.
7. Vegetation clearance from the canal bed upstream upstream of Cropwell Roving Bridge.
8. Pedestrian footbridge with handrail Lock 10 (upstream of A46 Road) and granular surface of car parking area.
9. Waterway wall repairs with metal handrail upstream of Cropwell Roving Bridge.
10. Towpath surface works, hedge planting and other access improvements between Cotgrave Road and Hollygate Lane referred to within the Cotgrave SRB scheme.

SCHEDULE 3

The works to be undertaken by the Council.

1. Environmental and hedge management scheme Lady Bay length.
2. Timber footbridge crossing Grantham Canal near supermarket at Gamston and subject to raising bridge to navigation height if canal is restored for navigation.
3. The pedestrian footbridge (schedule 1:10) crossing lock 10 upstream of A46 to be raised to navigational height if the canal is restored to navigation.

SCHEDULE 4

The works to be undertaken by the Board

1. The construction of a granular multi-user footpath included within the Cotgrave SRB Scheme.
2. Fencing to the off-side of the canal off side between Hog Hill Swing Bridge and Cropwell Roving Bridge.

SCHEDULE 5

The Maintenance Works to be undertaken by the Board

1. The foundations of the Towing Path.
2. Such waterway walls as may separate the Towing Path from the navigation.
3. The hedgerow to the rear of the Towing Path.
4. Fencing to canal off side between Hog Hill Swing Bridge and Cropwell Roving Bridge.

SCHEDULE 6

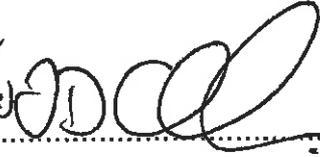
The Maintenance Works to be undertaken by the Council

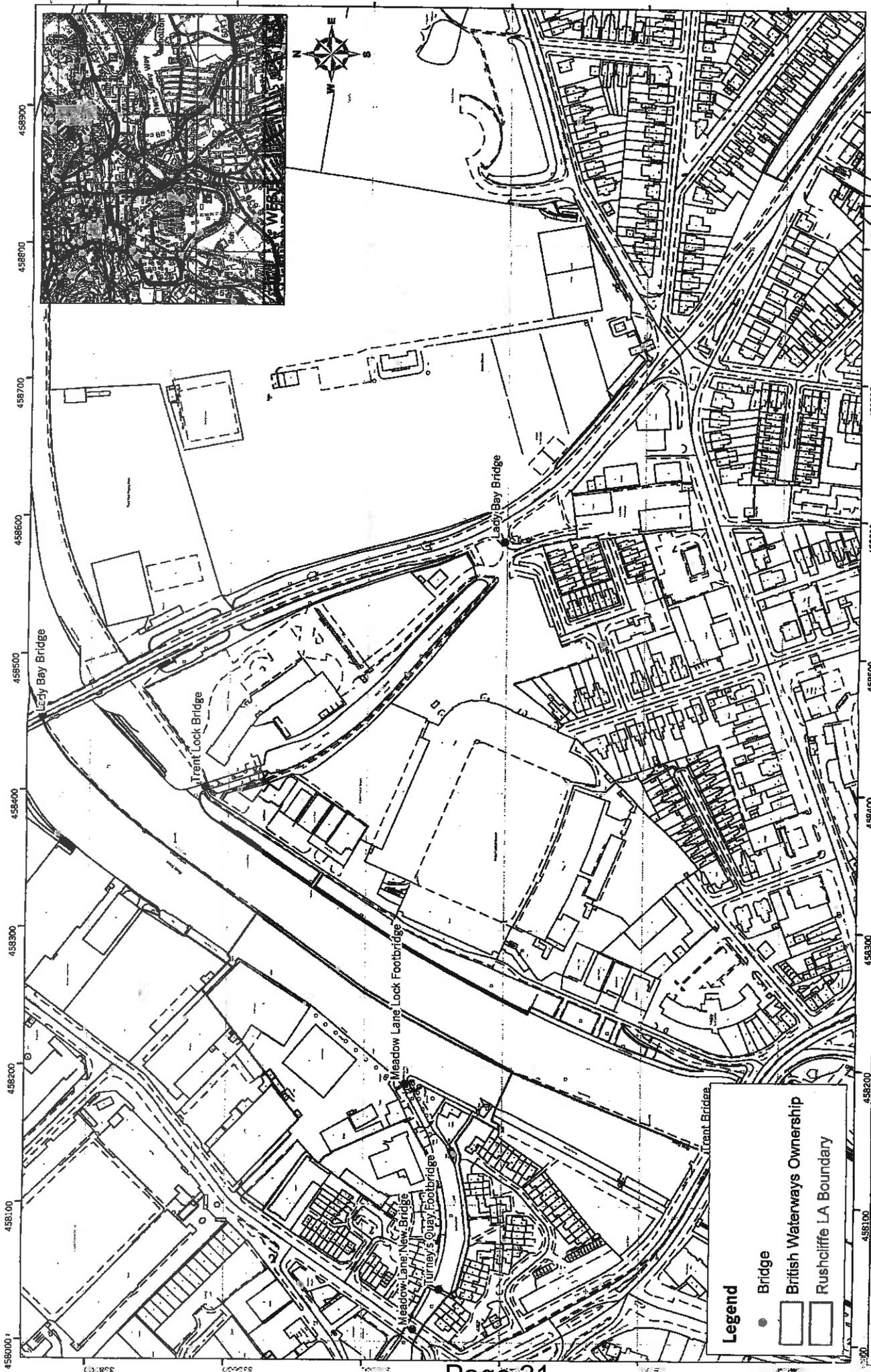
- 1 The continued maintenance of the surfaced Multi-User path and adjoining verge not more than 1metre to each side of the Multi-User path between ordnance survey reference nos. SK 587383 and SK 715295.
- 2 The maintenance of pedestrian and cycle route signs and litter and dog fouling bins on the Multi-User Path.
- 3 The maintenance of the Timber pedestrian Footbridge crossing the Grantham canal near the supermarket site at Gamston.

SCHEDULE 7

The maintenance works to be undertaken jointly by the Council and the Board.

1. Tarmac surfaced access connections between the highway and towpath at various locations as marked on schedule 1.
2. Anti Motorcycle barriers at locations marked on schedule 1. Metal handrails upstream of Cropwell Roving Bridge
3. Handrail and revetment to support ramp and access improvements.
4. Metal footbridge and car park improvements Lock 10.

JIM COLLINSON
(BOROUGH CLERK/CHIEF OFFICER)
Signed by 
For and on behalf of Rushcliffe Borough Council

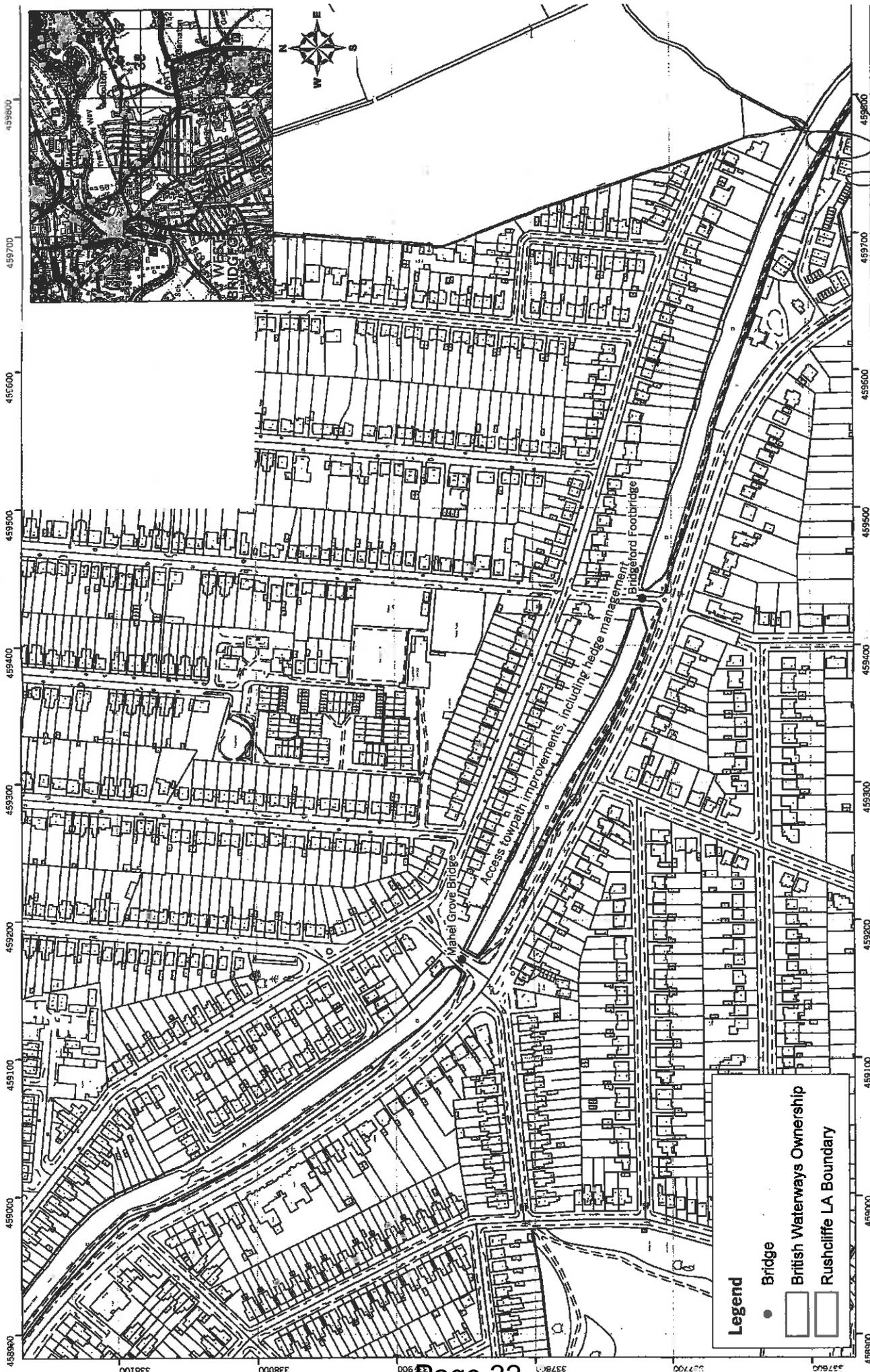


Grantham Canal Section 1

1:2,500

Date 01/03/2002
Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A. 2001.



1:2,500
 Date 01/03/2002
 Created by R.Gowling

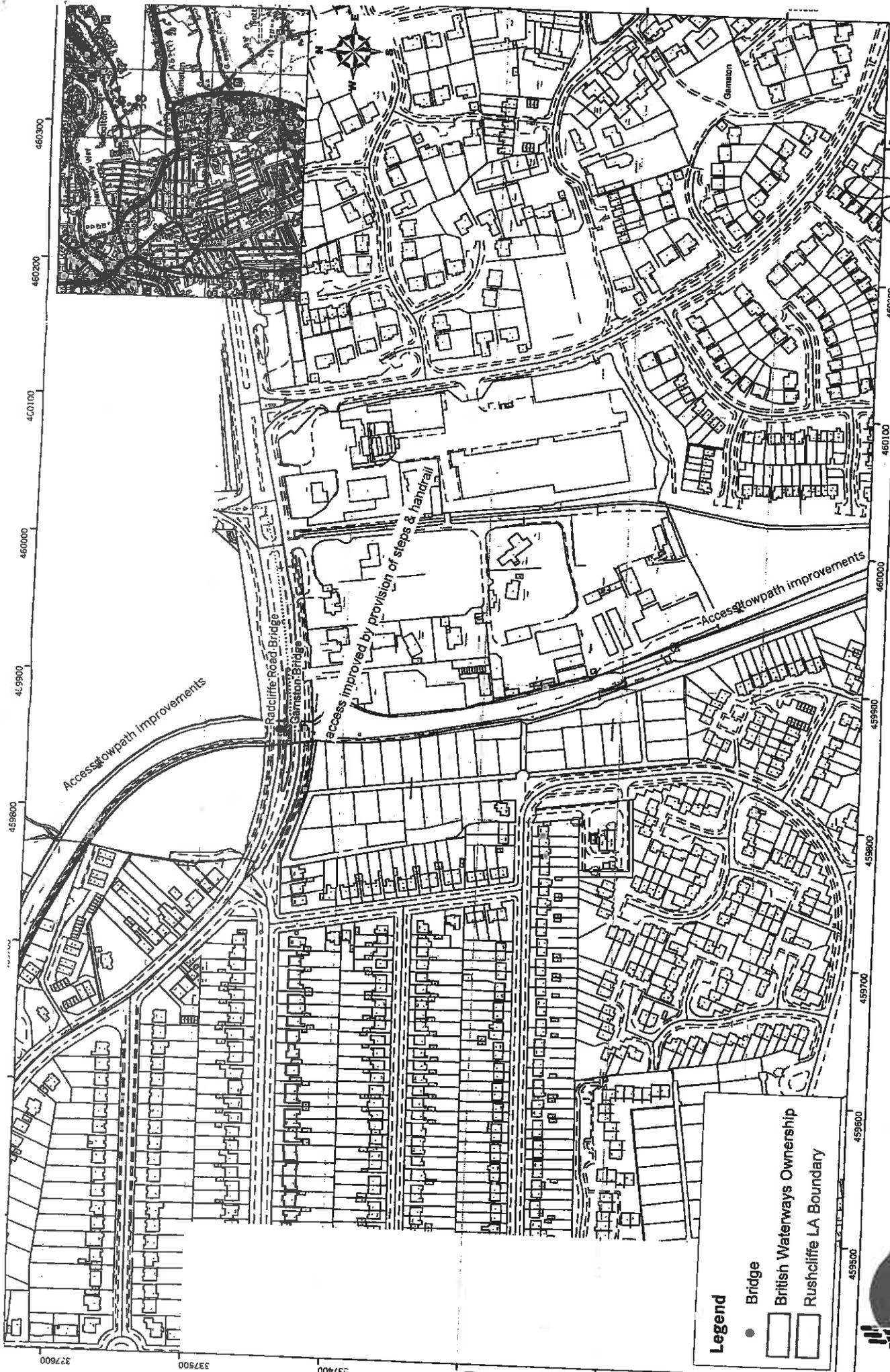
Grantham Canal Section 2

Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



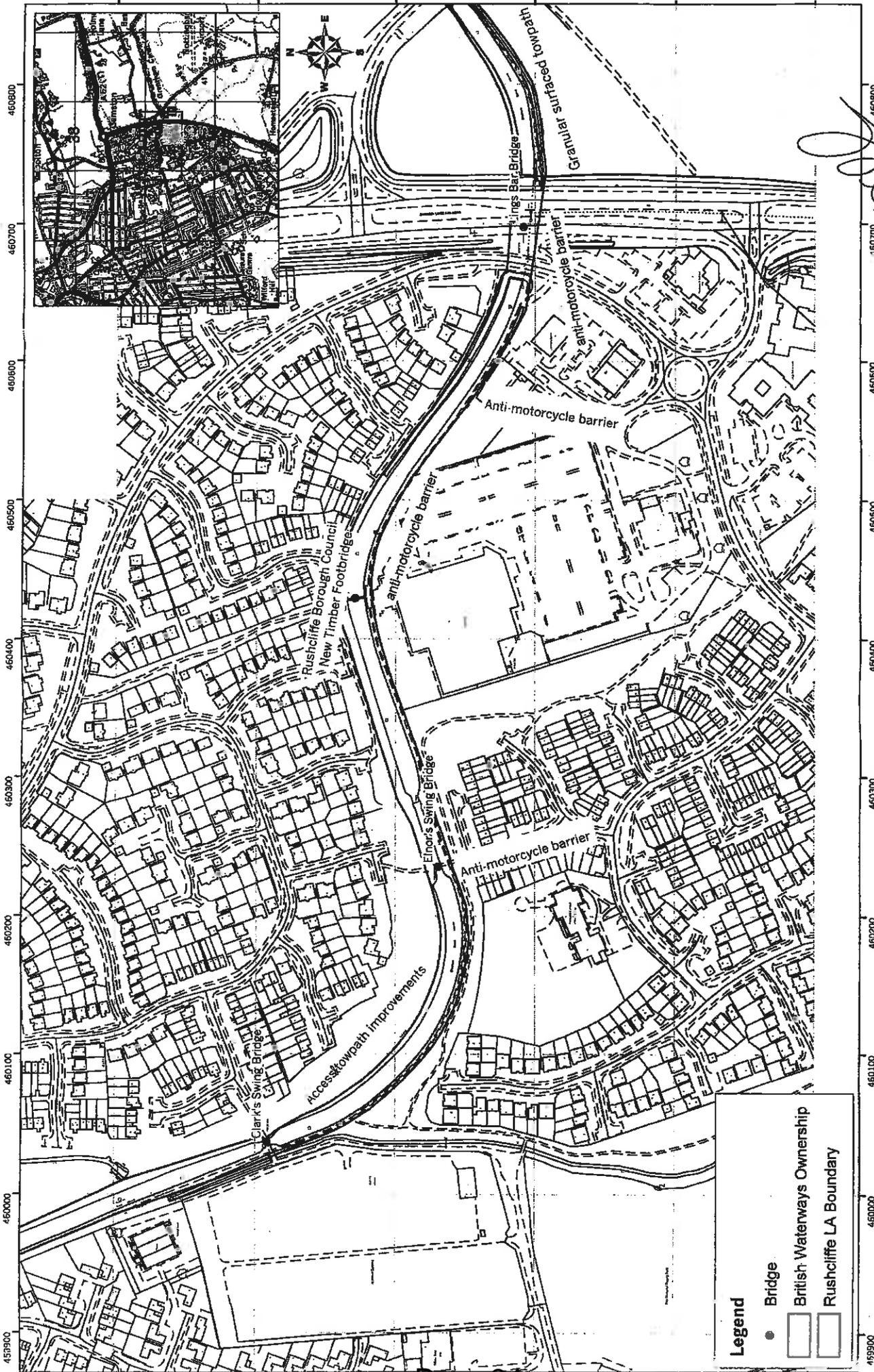
Grantham Canal Section 3

1:2,500

Date 01/03/2002
Created by R.Gowling



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



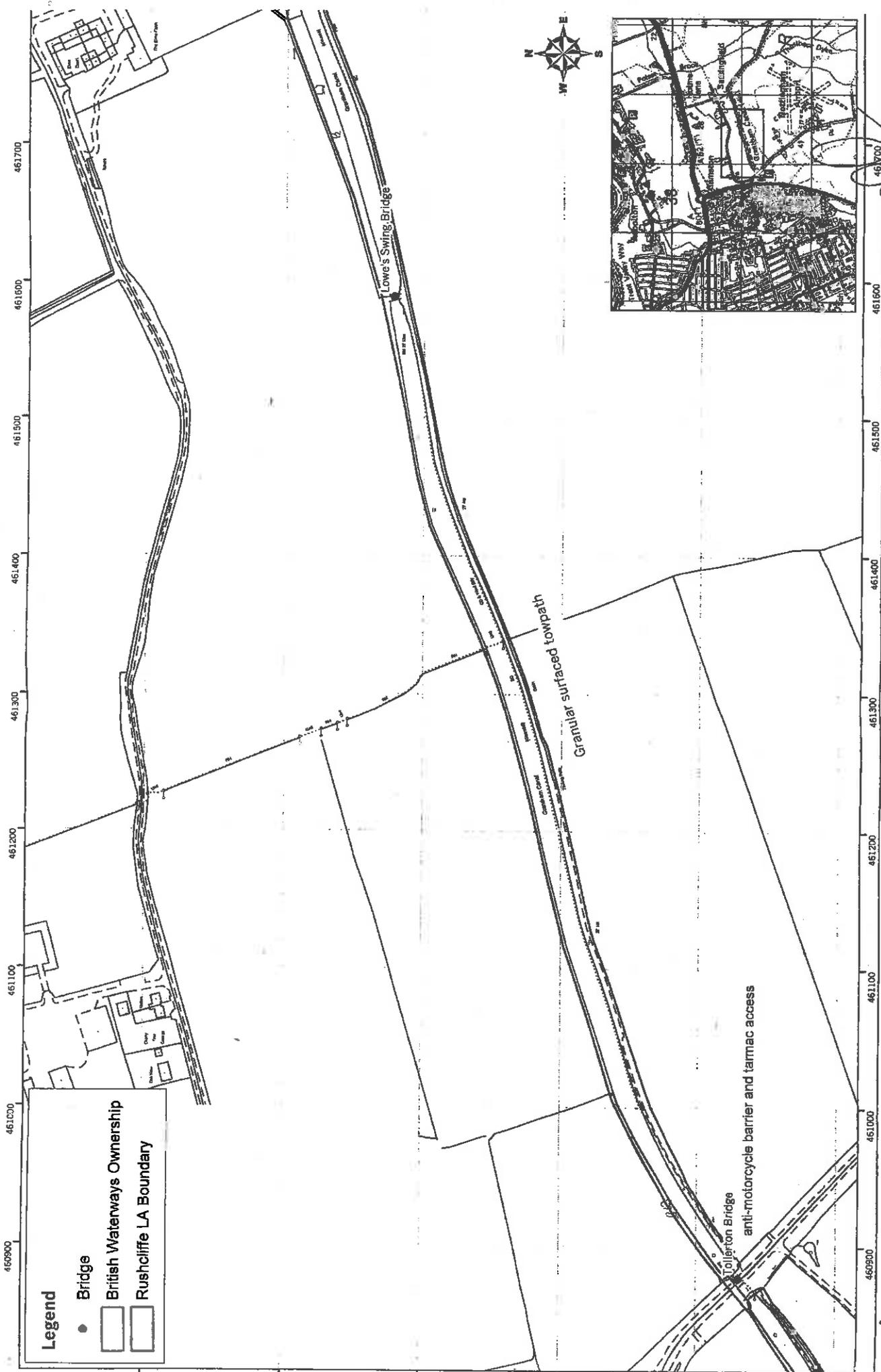
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 4

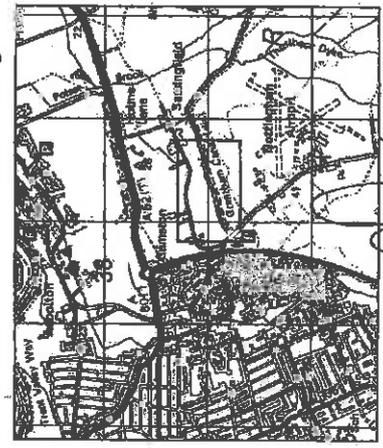
Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. RW 41 511 276 2001





Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary



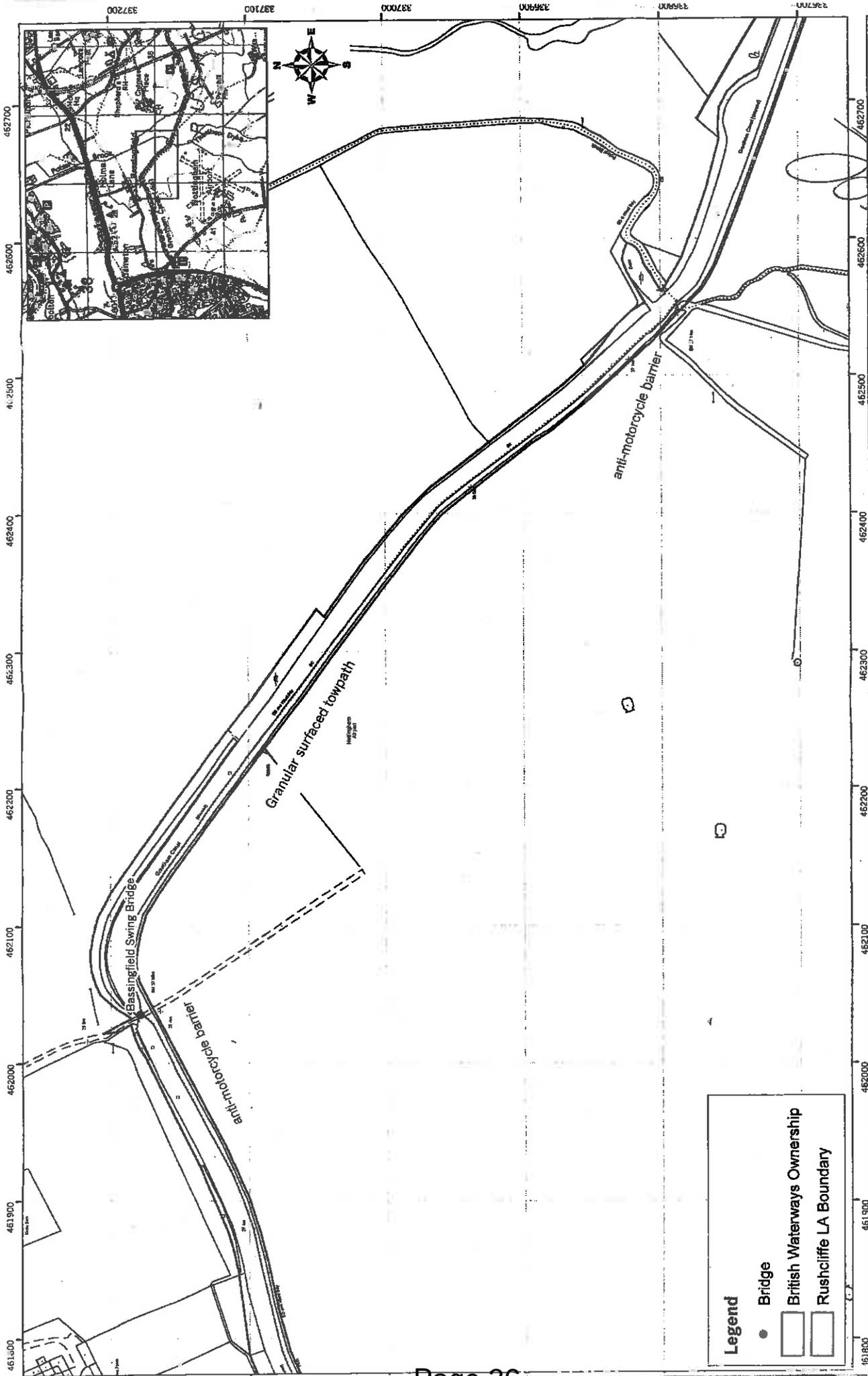
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 5



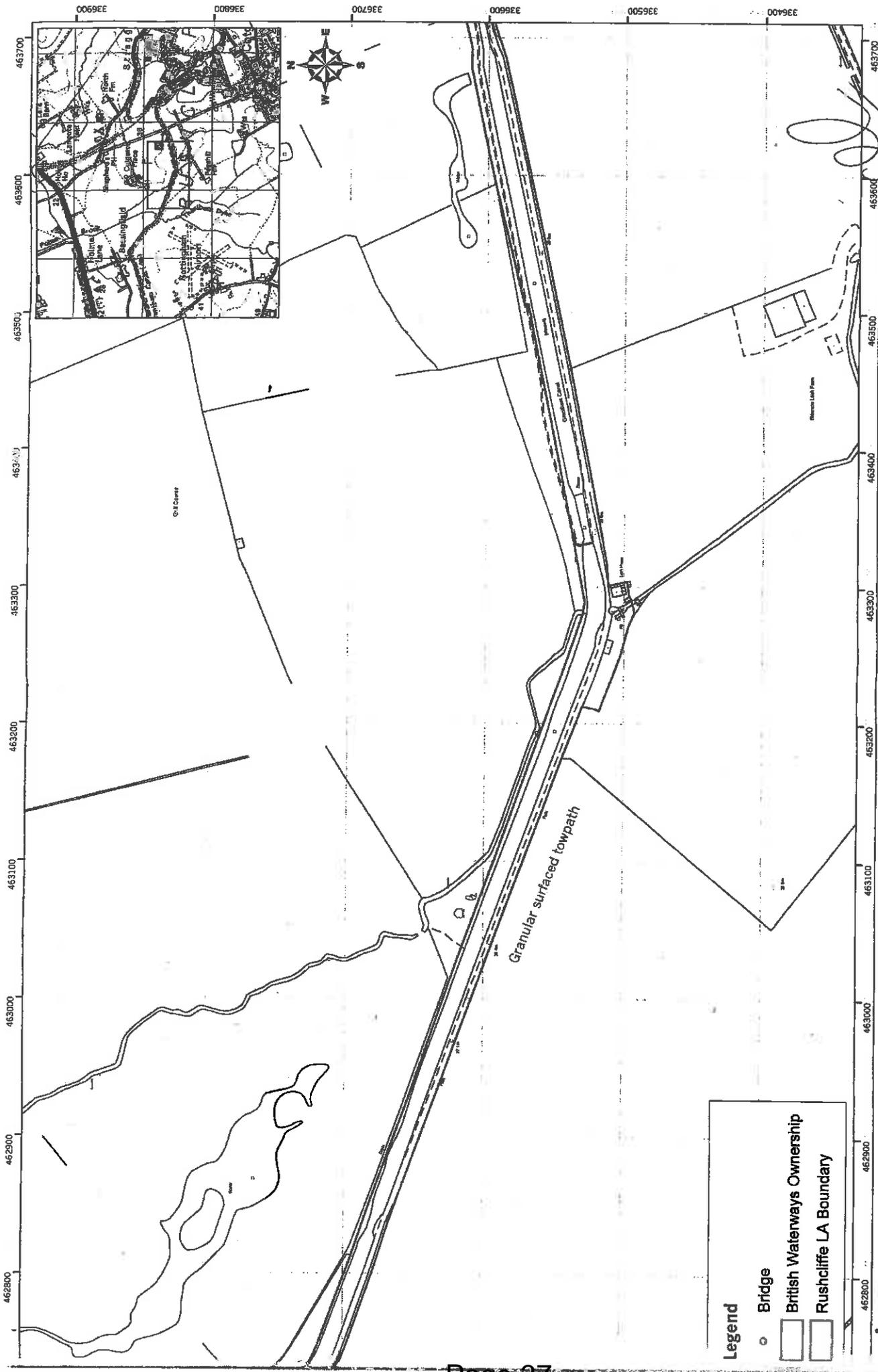
Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution. BW AL51127A, 2001.



Grantham Canal Section 6

1:2,500
 Date 01/03/2002
 Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW A151127A, 2001.



- Legend**
- Bridge
 - British Waterways Ownership
 - Rushcliffe LA Boundary

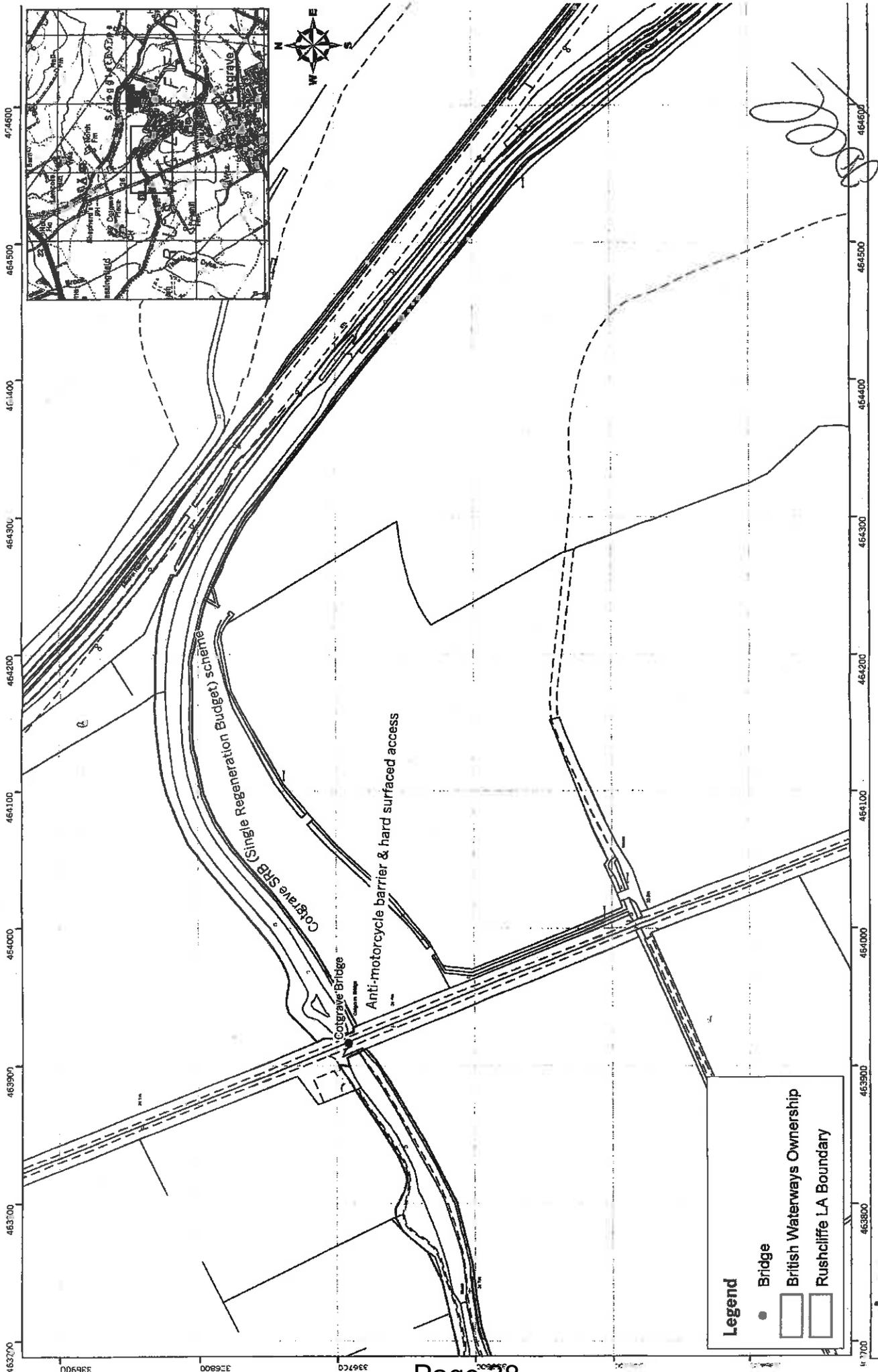


Grantham Canal Section 7

1:2,500

Date 01/03/2002
Created by R.Gowing

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW A5.1127A, 2001.



Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

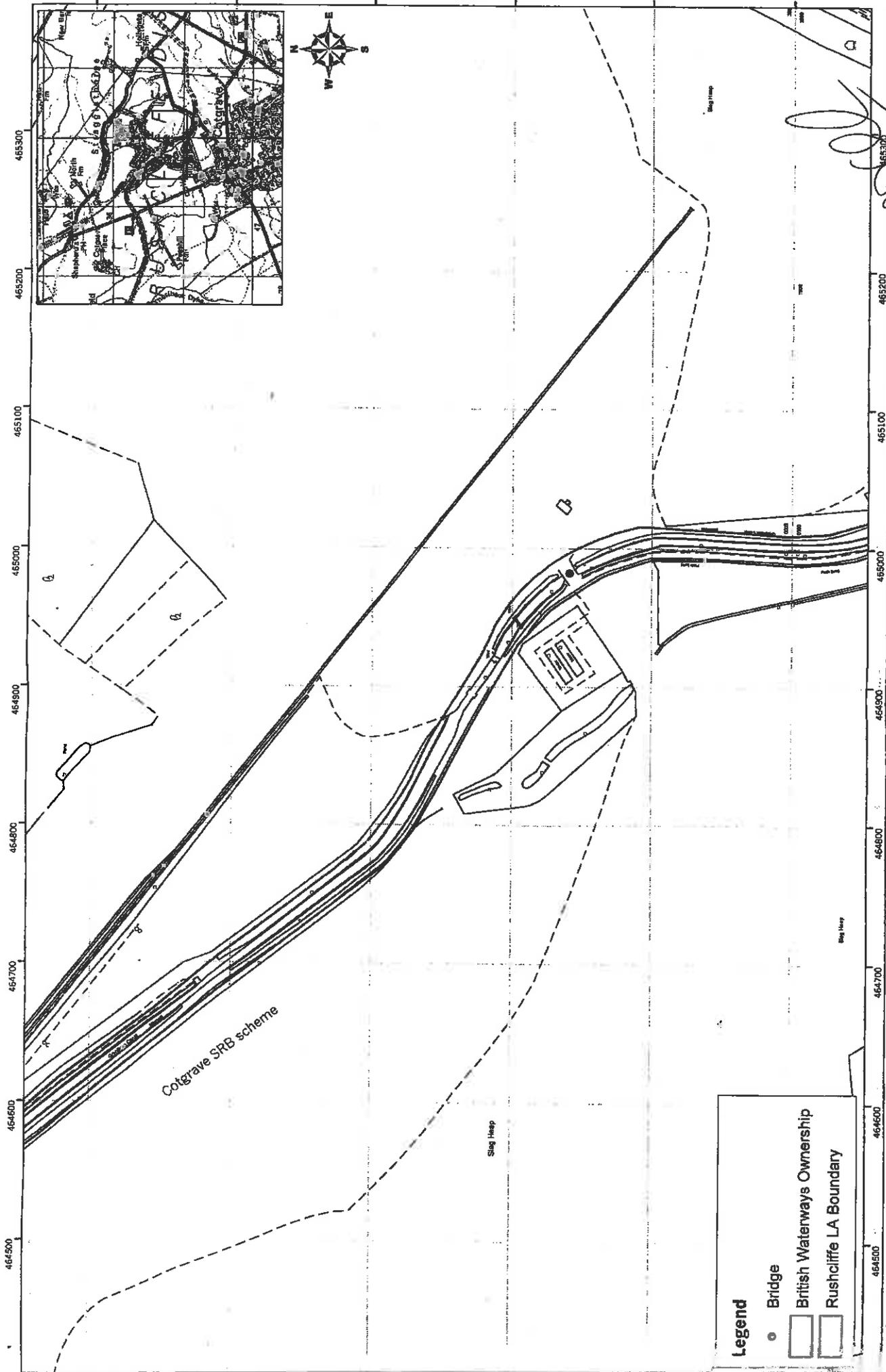


Grantham Canal Section 8

1:2,500

Date 01/03/2002
Created by R. Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Offices
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. SW AL51127A, 2001.



Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

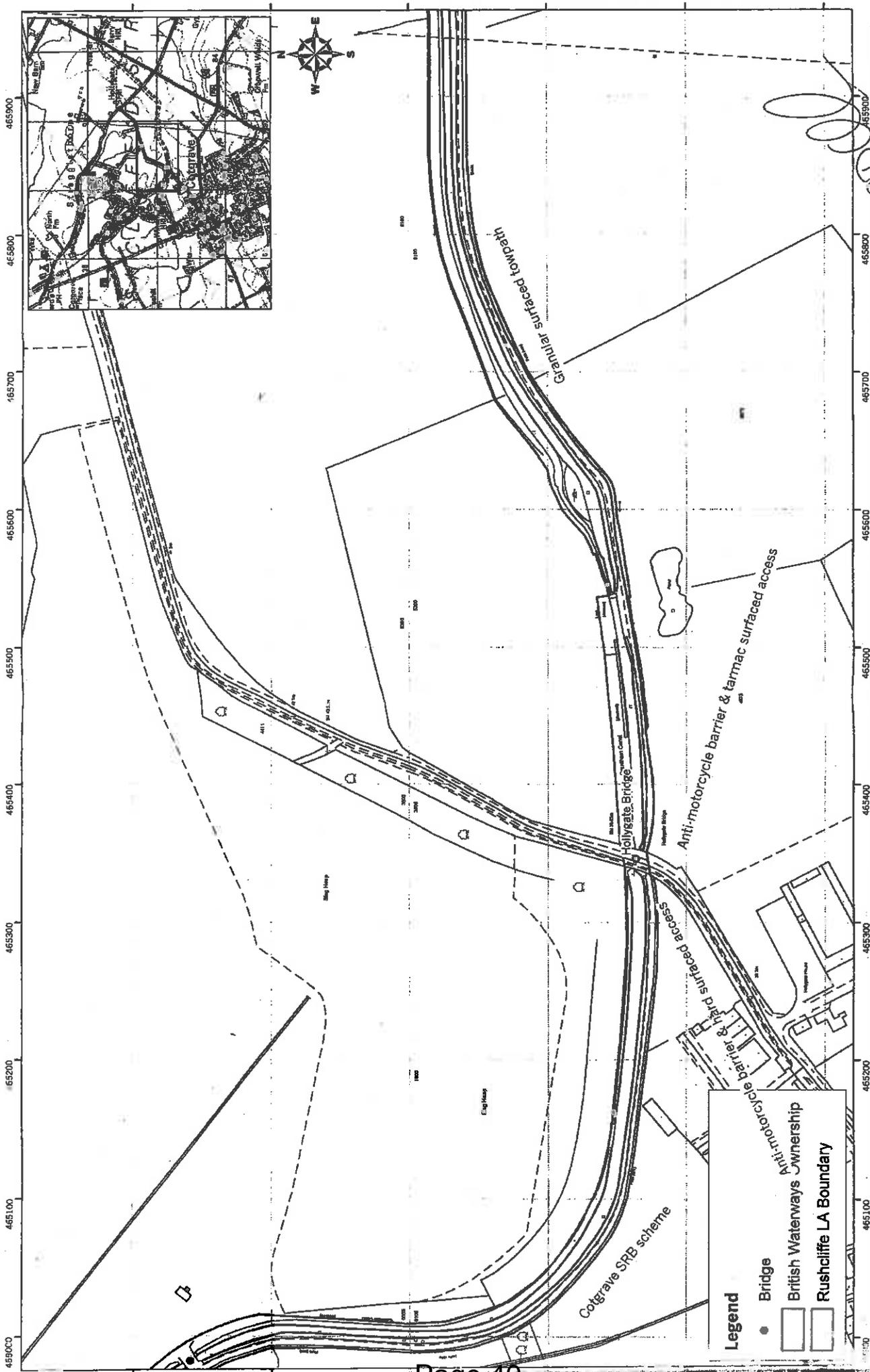


British Waterways
NE Region

Grantham Canal Section 9

1:2,500
Date 01/03/2002
Created by R.Gowling

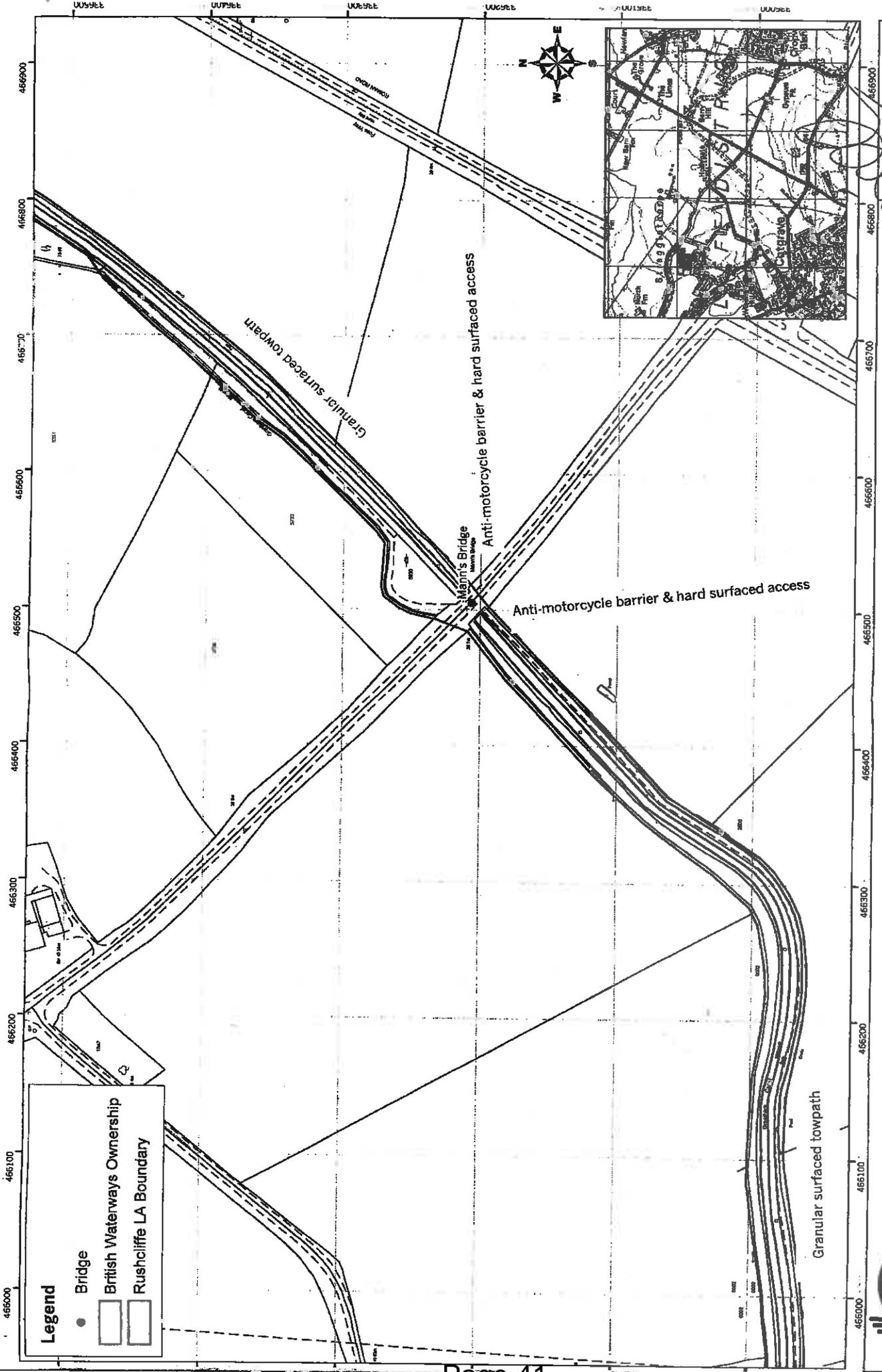
Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



Grantham Canal Section 10

1:2,500
 Date 01/03/2002
 Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW ALS1127A, 2001.



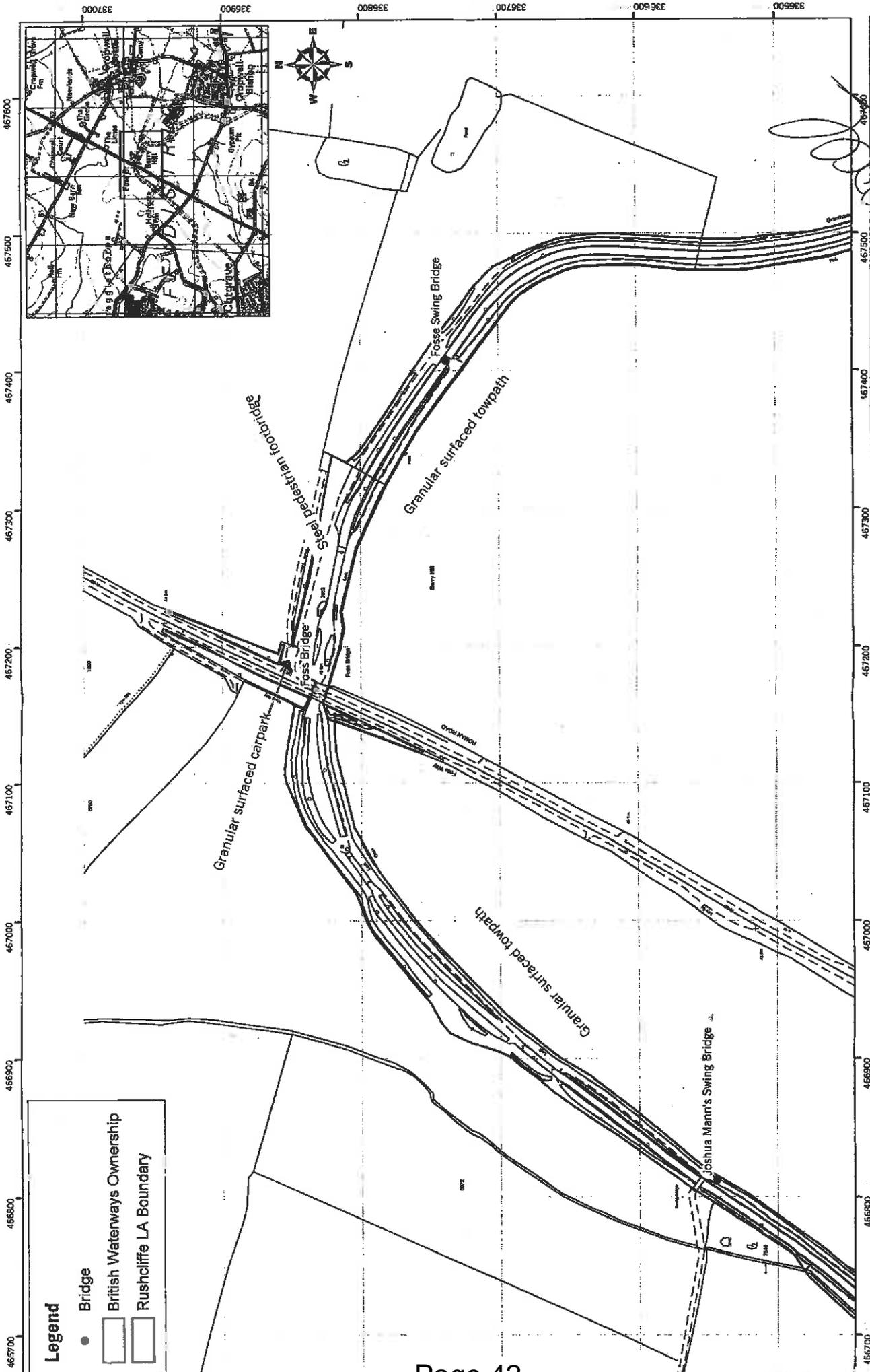
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 11

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW ALS1127A, 2001.





Legend

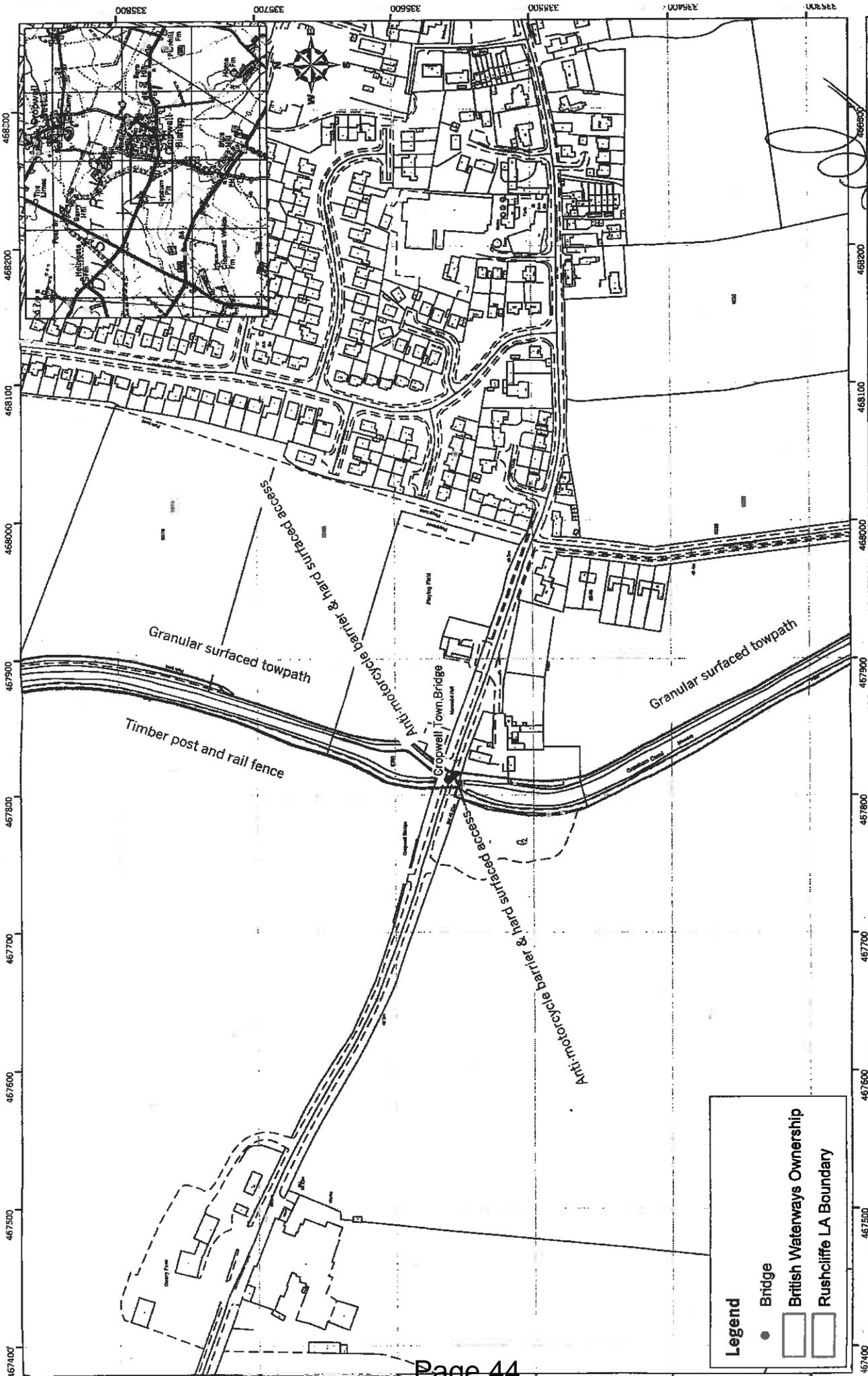
- Bridge
- ▭ British Waterways Ownership
- ▭ Rushcliffe LA Boundary



Grantham Canal Section 12

1:2,500
 Date 01/03/2002
 Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



1:2,500
 Date 01/03/2002
 Created by R.Gowling

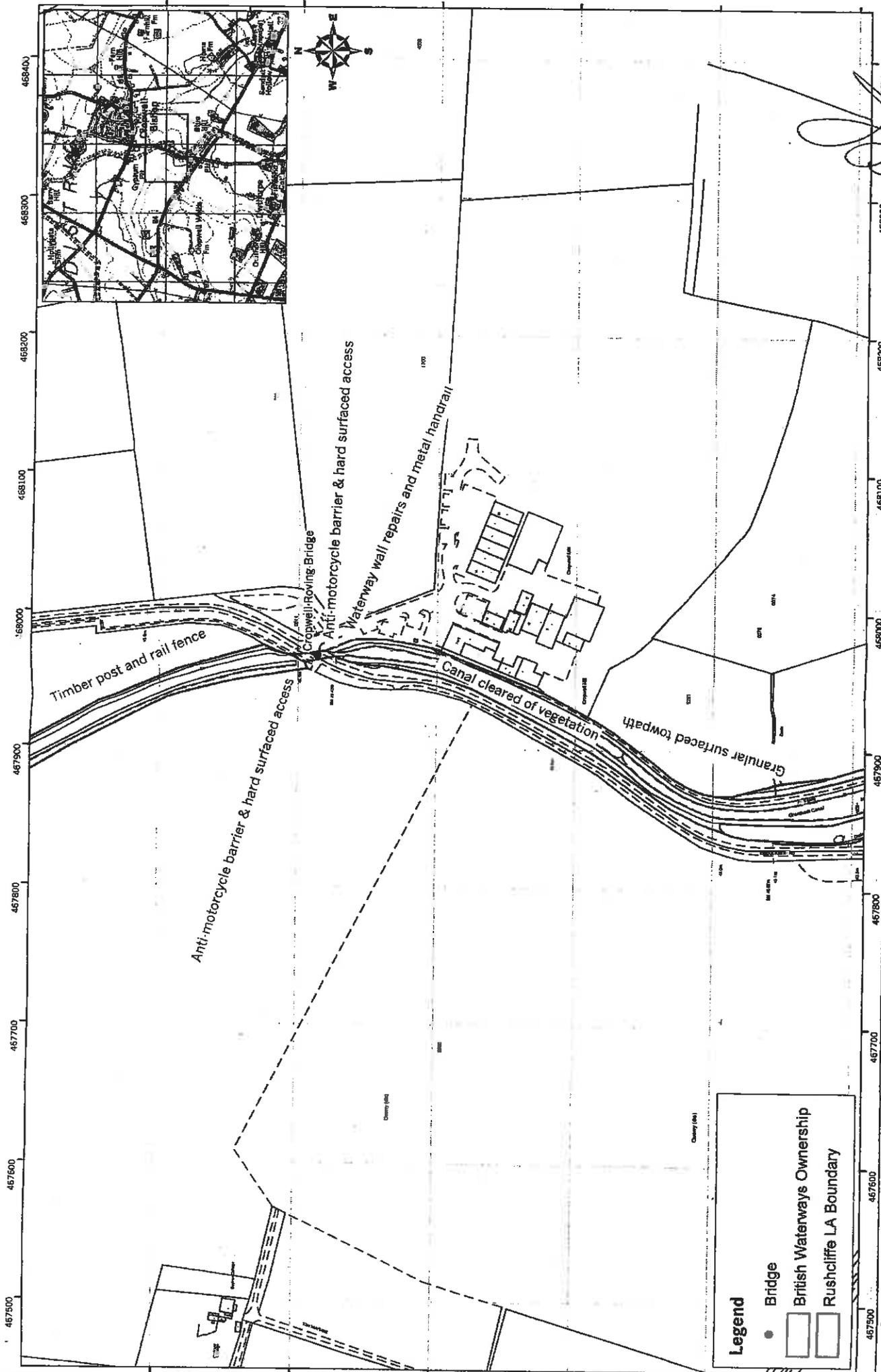
Grantham Canal Section 14

Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



Legend

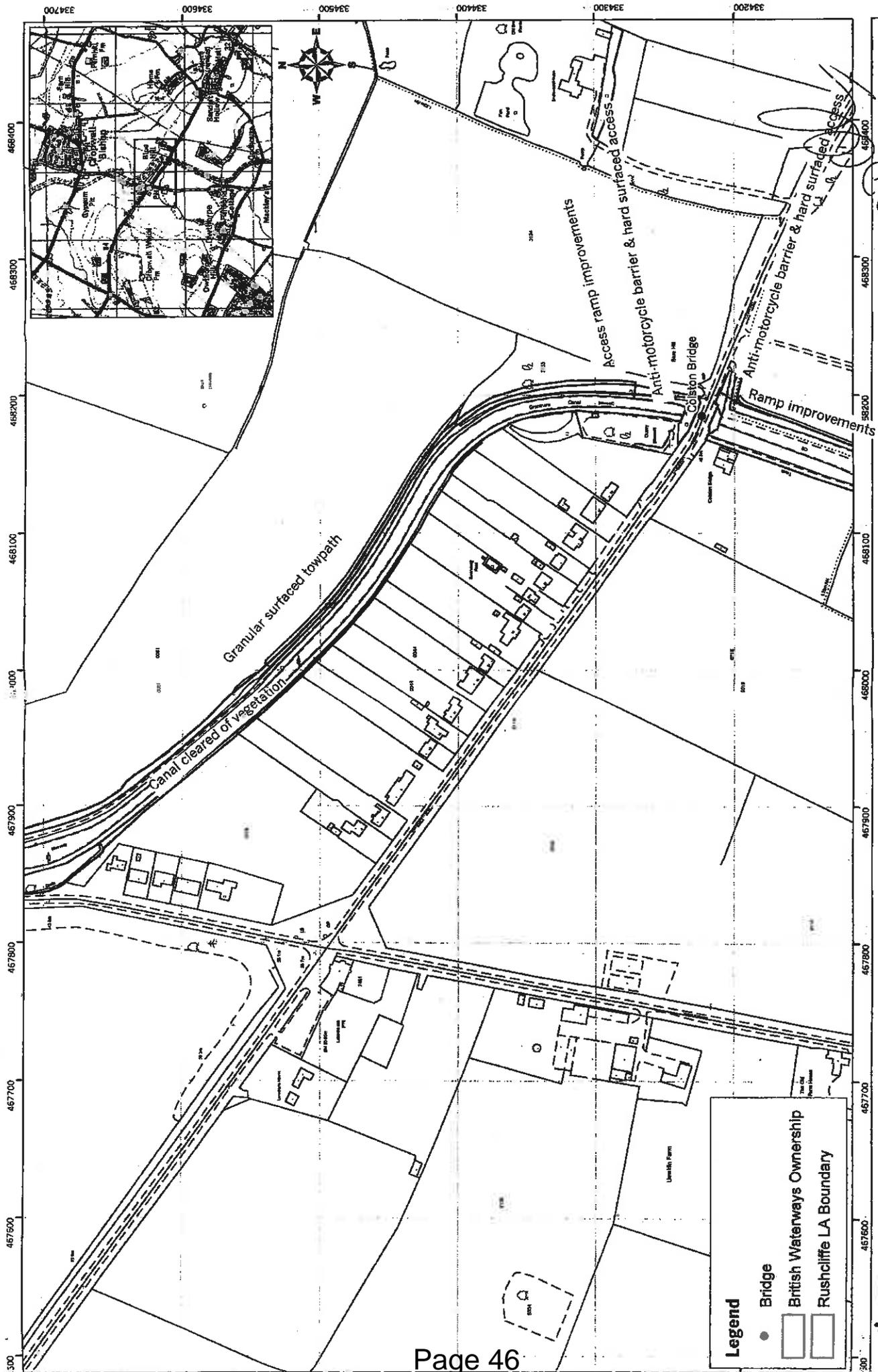
- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary



Grantham Canal Section 15

1:2,500
 Date 01/03/2002
 Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW A1 5112/A, 2(01).



Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

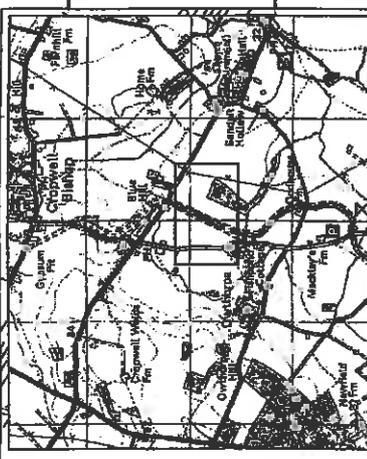
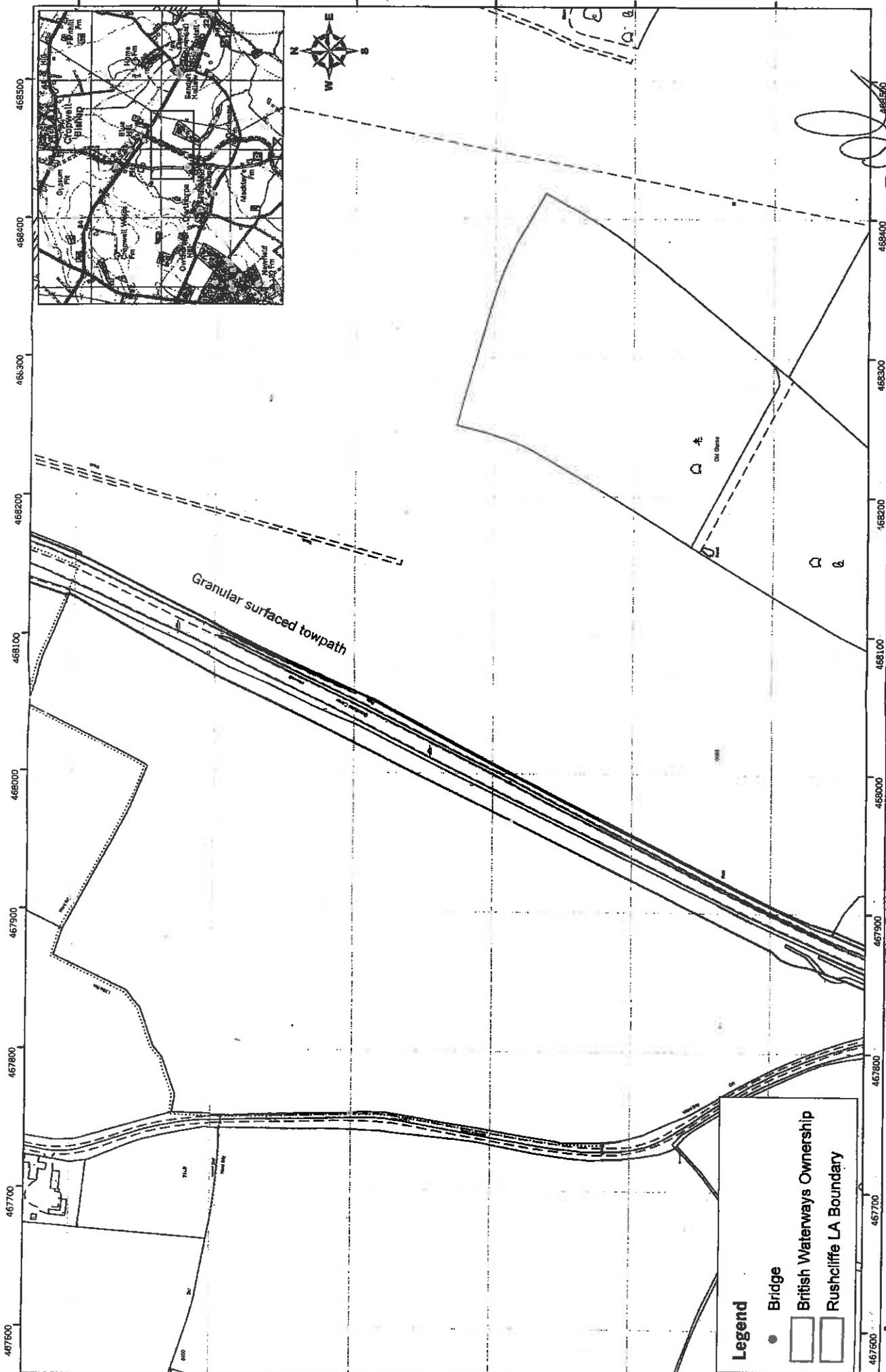
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 16

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction in any form is prohibited. BW AL51127A. 2001.





Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

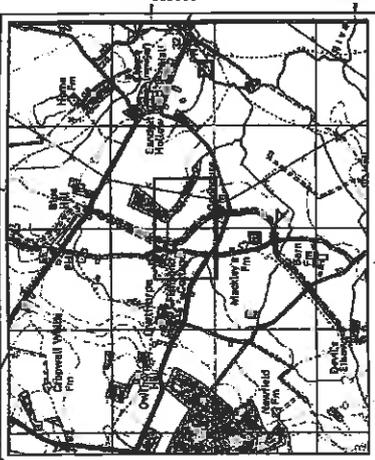
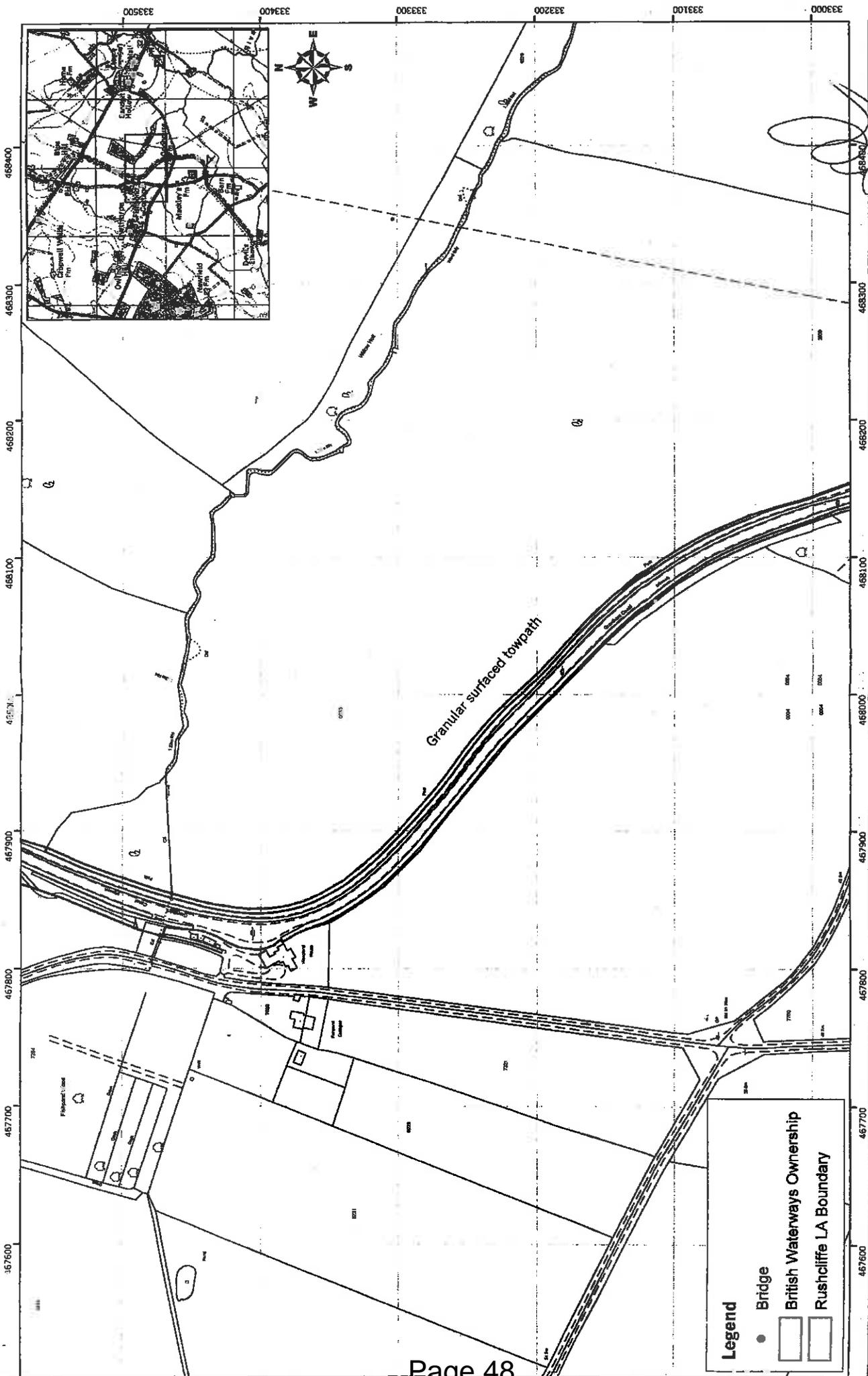


Grantham Canal Section 17

1:2,500

Date 01/03/2002
Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL31127A, 2001.



Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

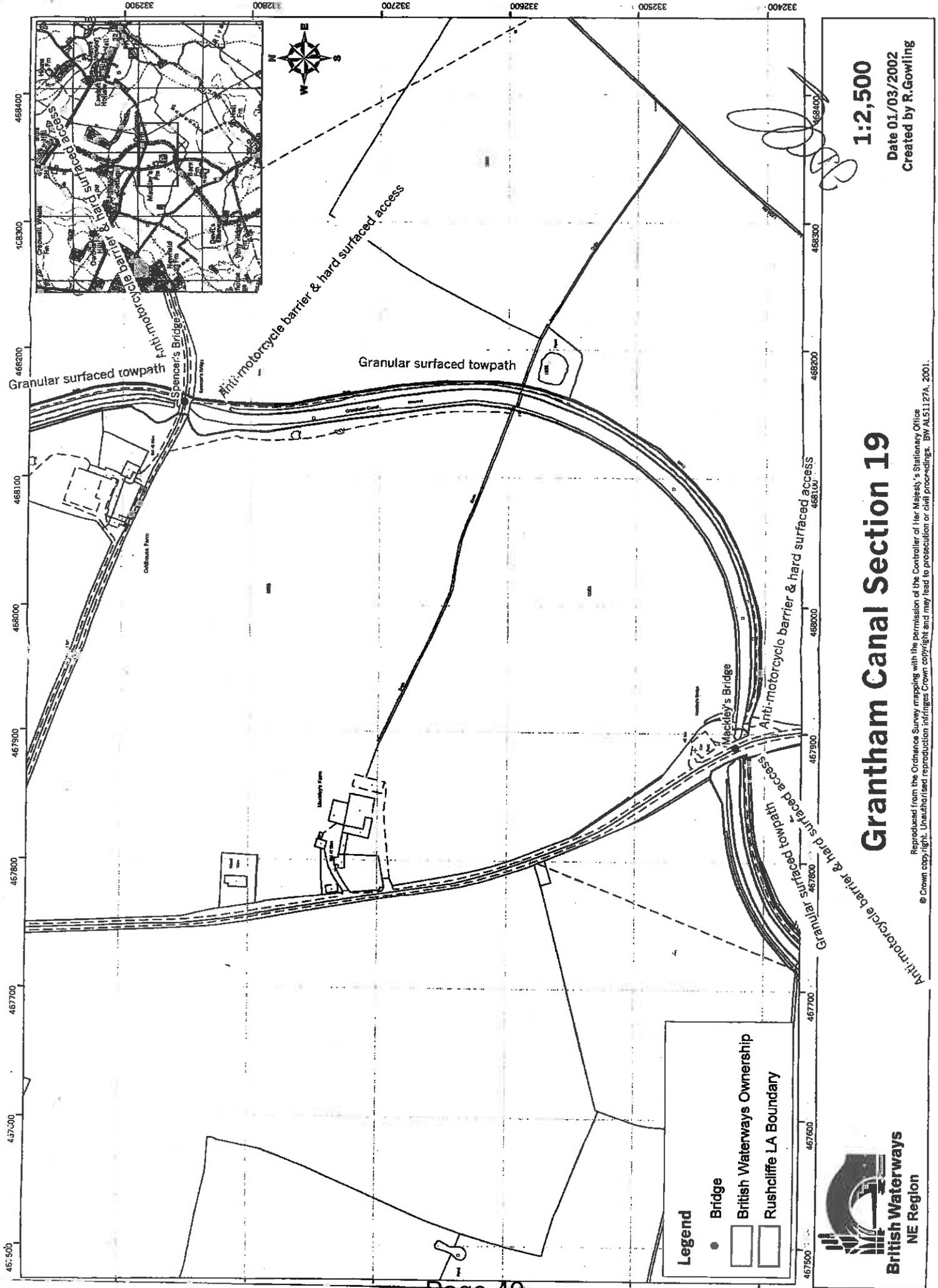
Grantham Canal Section 18

1:2,500

Date 01/03/2002
Created by R.Gowling



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW A1 51177A. 2001.



Grantham Canal Section 19

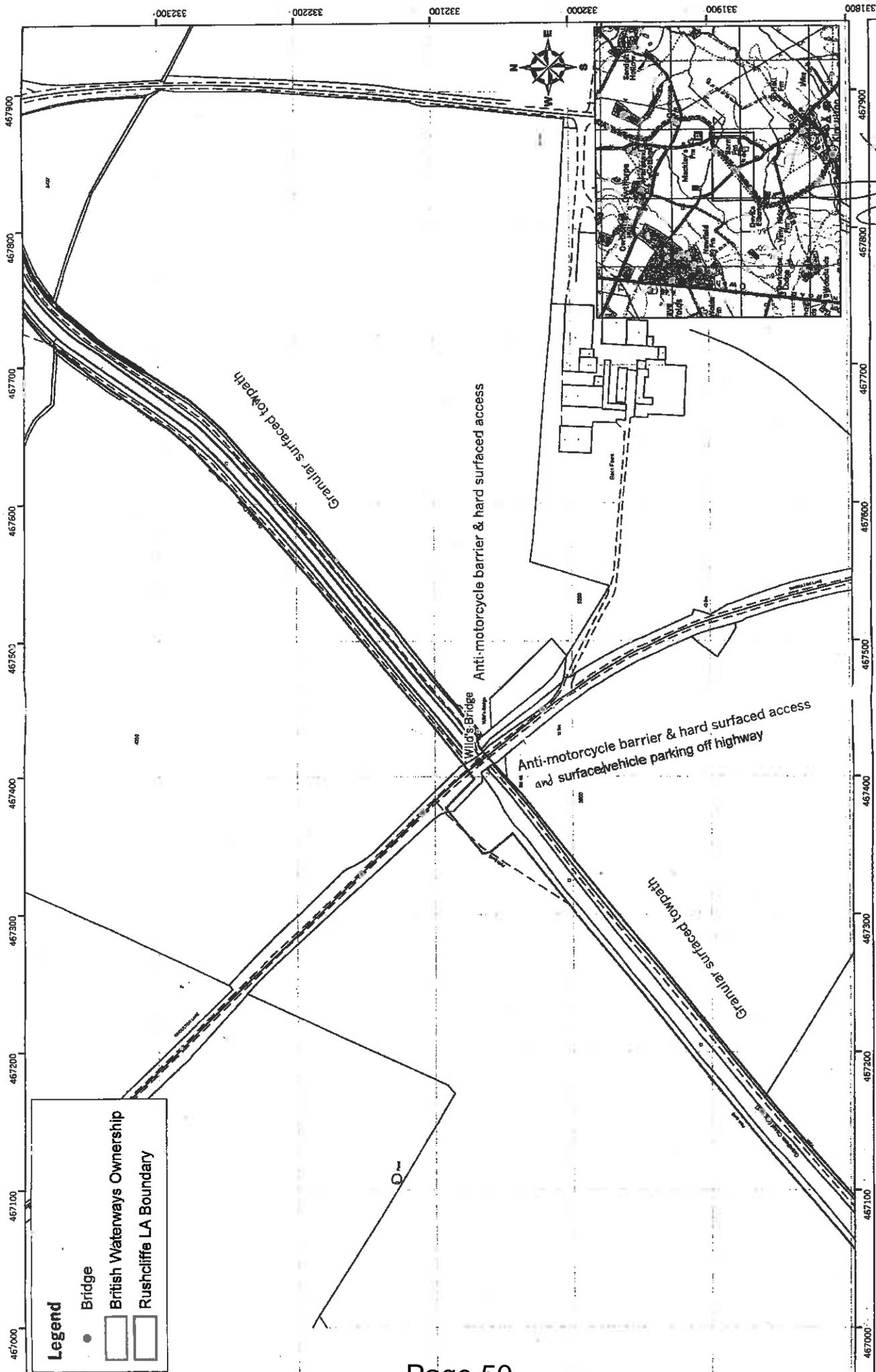
1:2,500

Date 01/03/2002
Created by R.Gowling

- Legend**
- Bridge
 - British Waterways Ownership
 - Rushcliffe LA Boundary



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



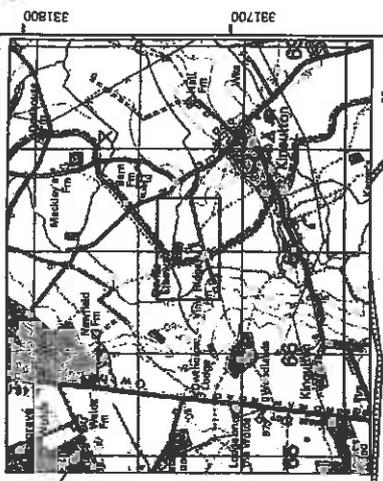
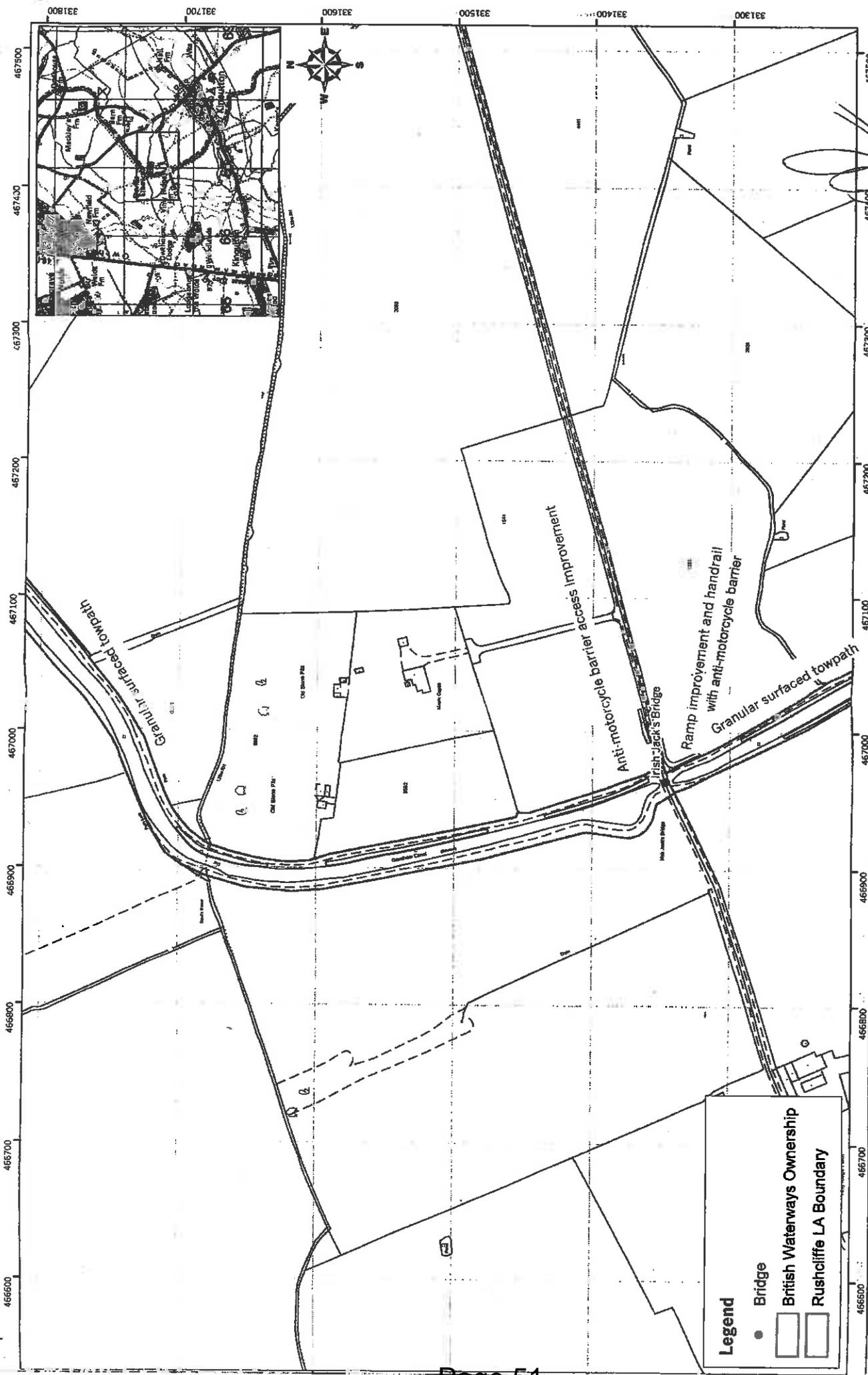
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 20

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office.





Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

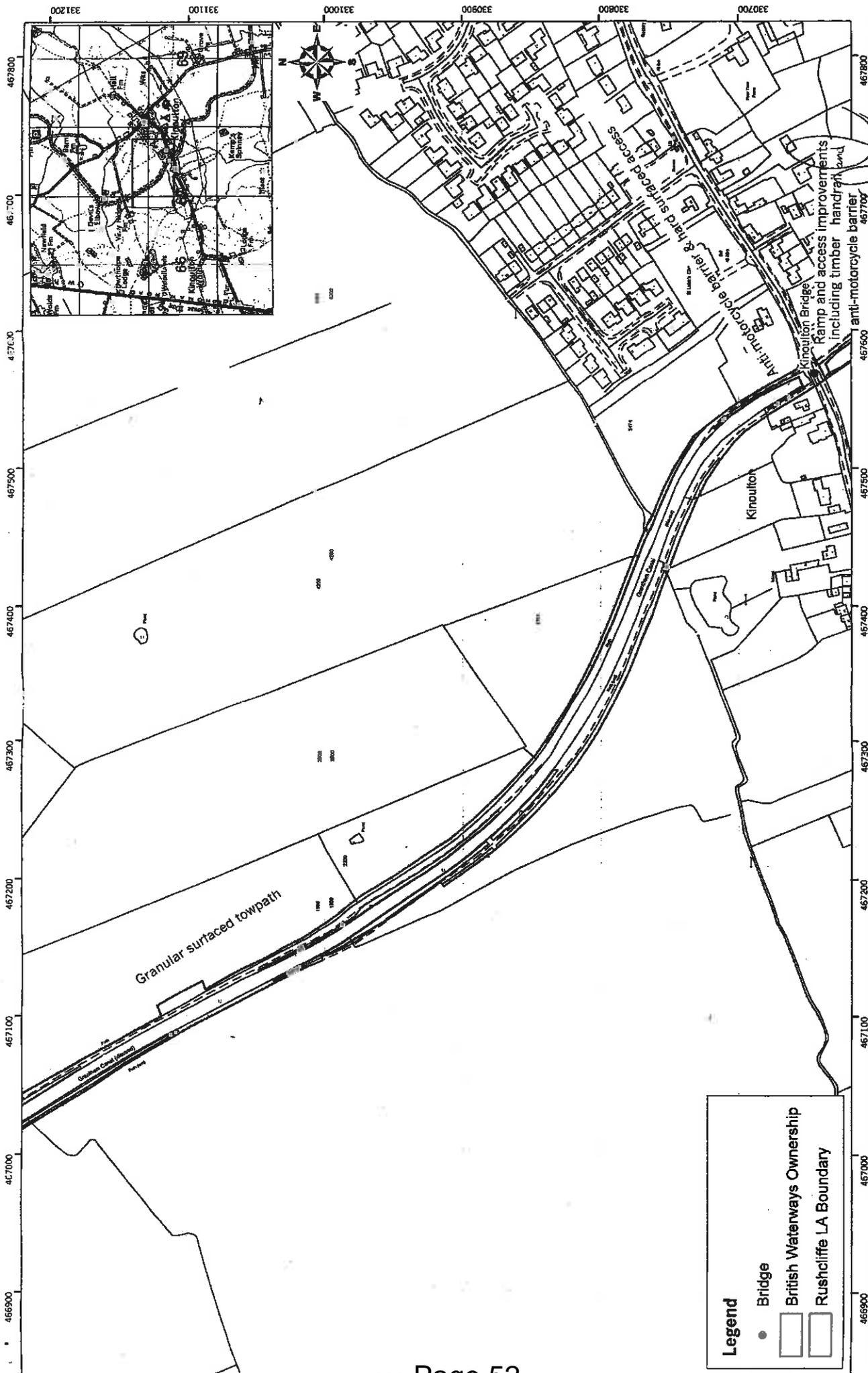


Grantham Canal Section 21

1:2,500

Date 01/03/2002
Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. RW A1 51127A, 2001.



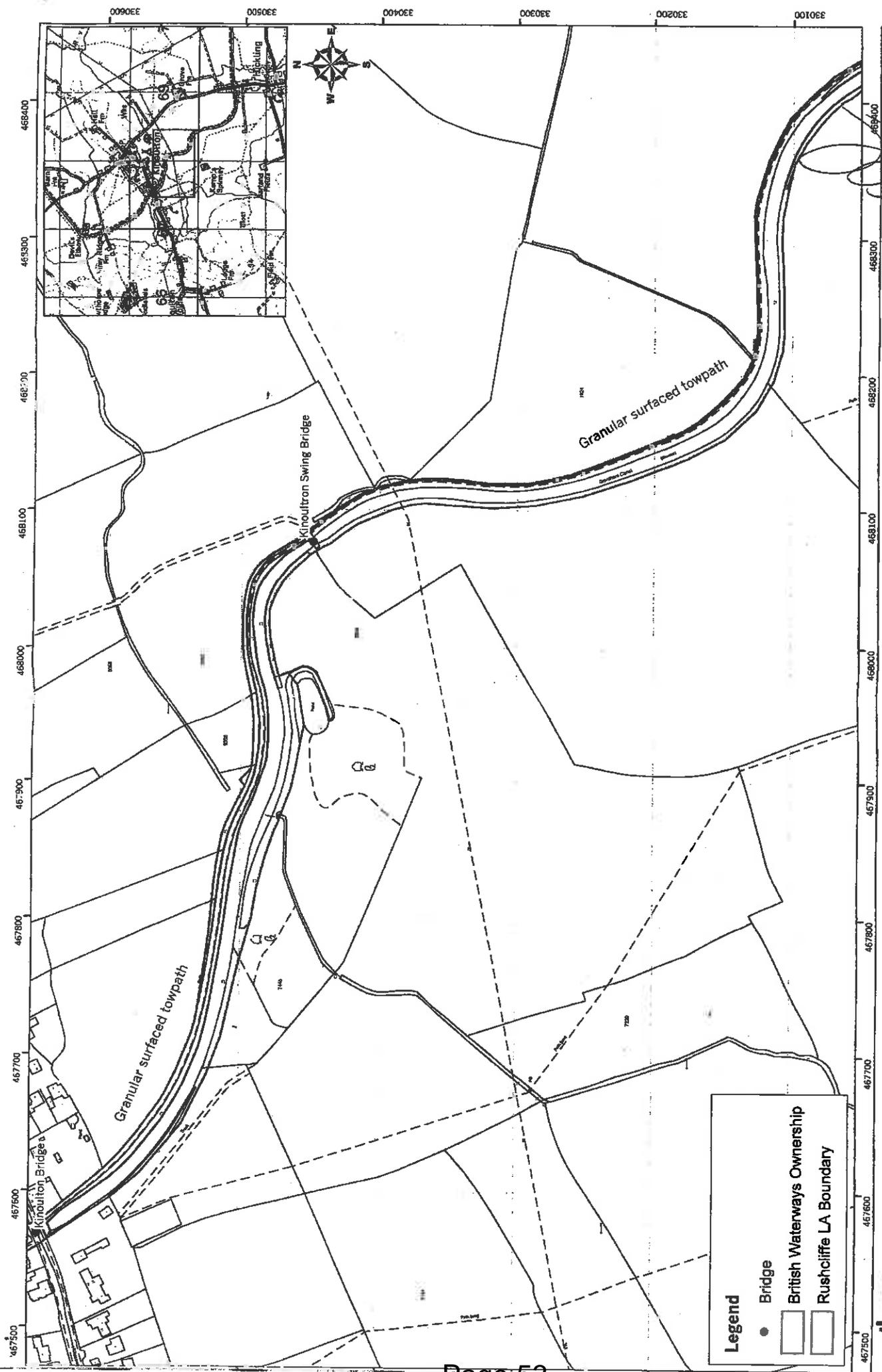
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 22

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.





Legend

- Bridge
- ▭ British Waterways Ownership
- ▭ Rushcliffe LA Boundary

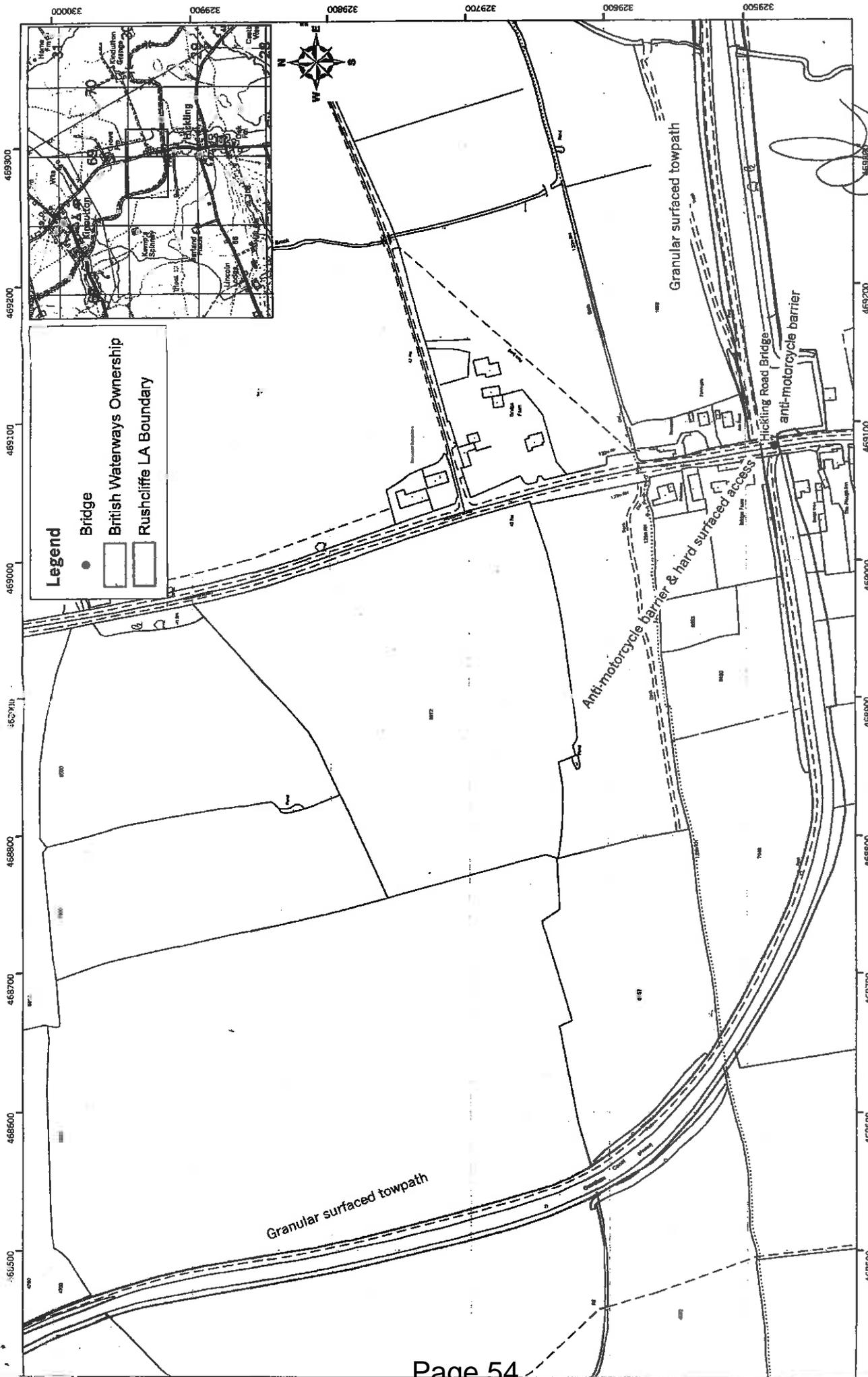
1:2,500

Date 01/03/2002
Created by R.Gowling

Grantham Canal Section 23

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction in any form without the permission of the Controller of Her Majesty's Stationary Office is prohibited. 3W AL51127A, 2001.





Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary

Granular surfaced towpath

Anti-motorcycle barrier & hard surfaced access

Granular surfaced towpath

Licking Road Bridge

anti-motorcycle barrier

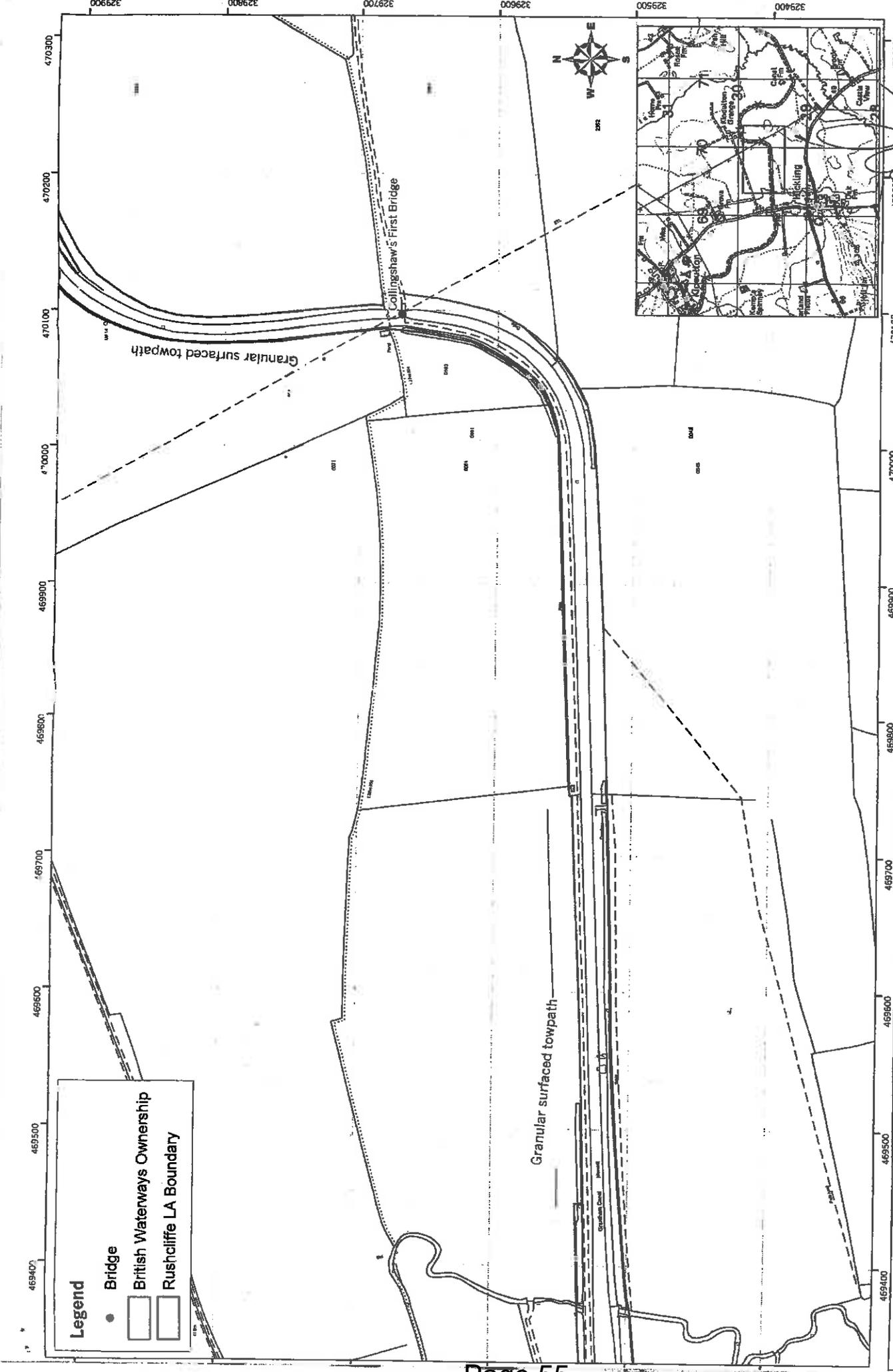


Grantham Canal Section 24

1:2,500

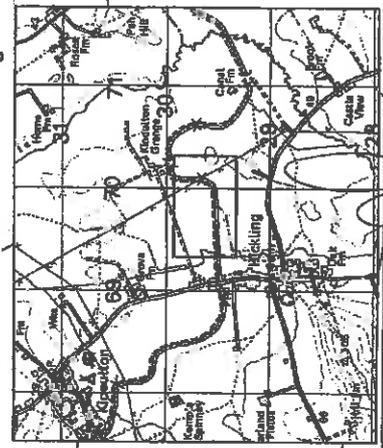
Date 01/03/2002
Created by R. Gowing

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.



Legend

- Bridge
- British Waterways Ownership
- Rushcliffe LA Boundary



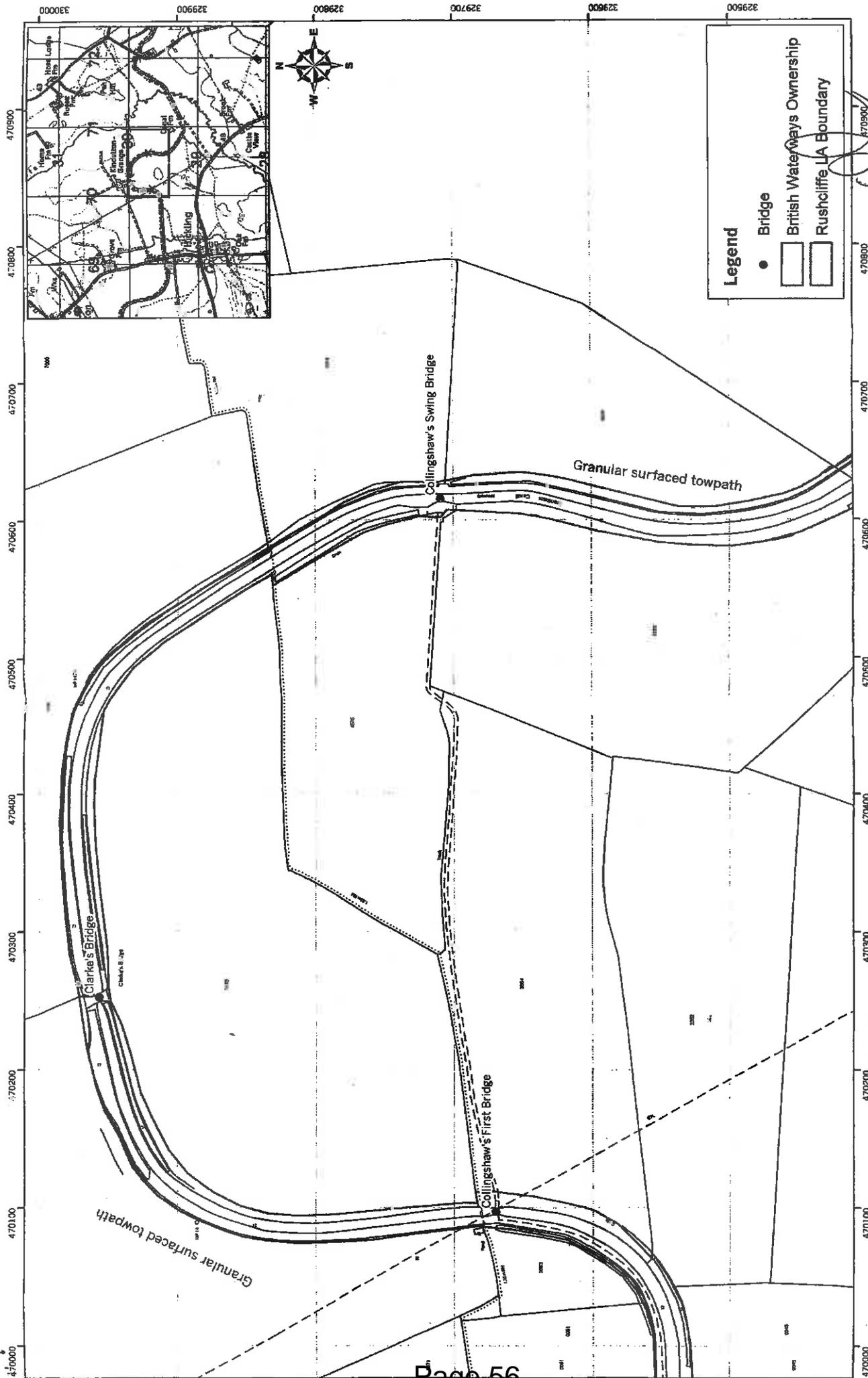
1:2,500

Date 01/03/2002
Created by R.Gowing

Grantham Canal Section 25



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to a prosecution or civil proceedings. RW 01 03 1978 2001

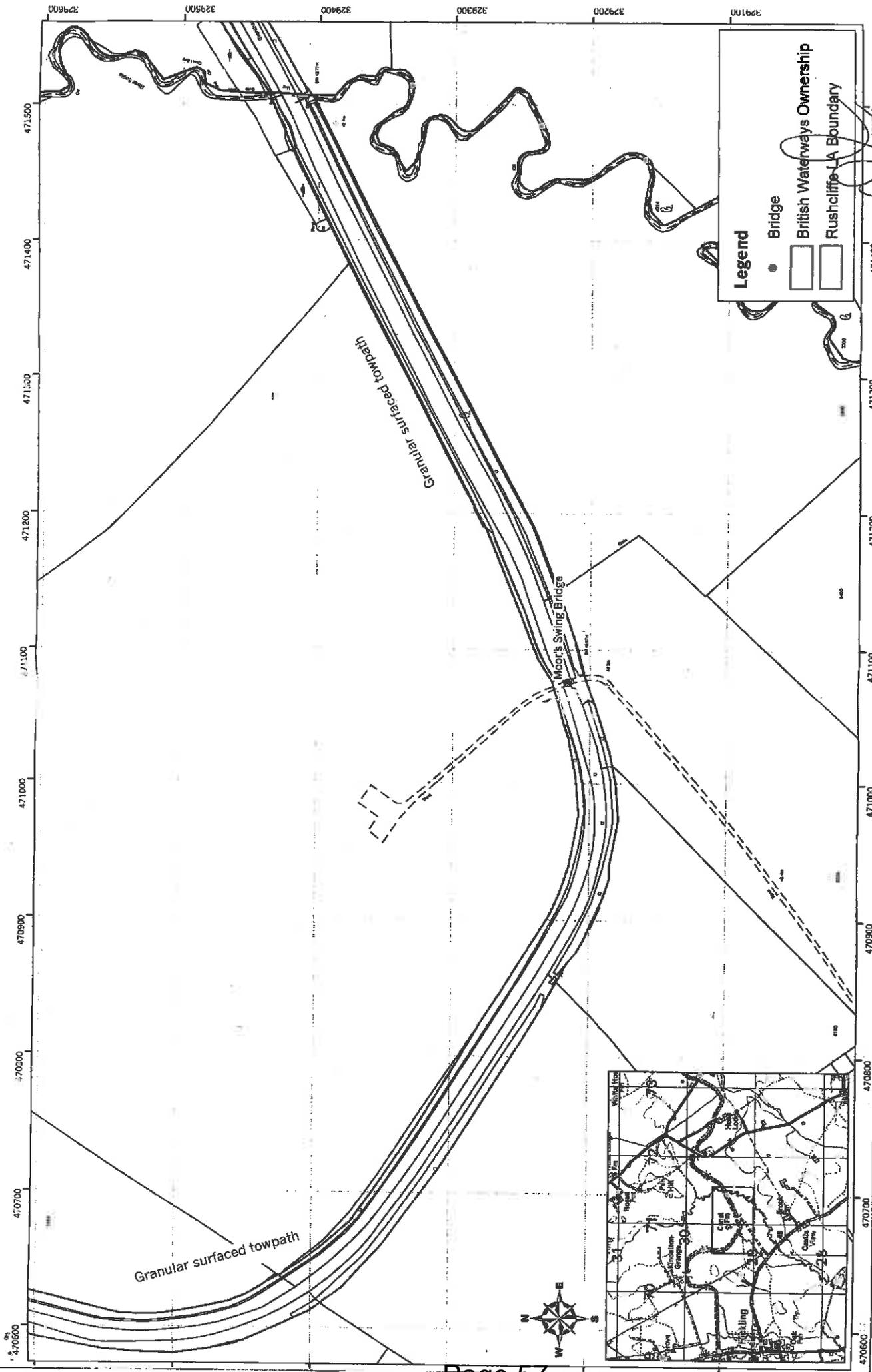


Grantham Canal Section 26

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. BW AL51127A, 2001.

1:2,500

Date 01/03/2002
 Created by R.Gowling



Grantham Canal Section 27

1:2,500
 Date 01/03/2002
 Created by R.Gowling

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. SW 41127A, 2001.



Communities Scrutiny Group

Thursday, 5 October 2023

Social Housing Models

Report of the Director - Neighbourhoods

1. Purpose of report

- 1.1. This report will inform scrutiny of the Council's approved policy and operational framework for the provision of affordable housing. This will bring Councillors up to date on the current delivery of affordable housing in the Borough and provide an overview of other sector models. This includes the existing methods that are used to allocate the Affordable Housing budget and an overview of current and future housing need.
- 1.2. The report reflects upon a previous Cabinet report: 'Allocation of Affordable Housing Capital Budget' considered on 10 September 2019 which in turn built upon the Affordable Housing Capital Review (13 March 2018) and the Property Company Options (14 November 2017) Cabinet reports.

2. Recommendation

It is RECOMMENDED that the Communities Scrutiny Group scrutinises the information provided by officers on the Council's current approach to the provision of social housing.

3 Reasons for Recommendation

- 3.1 To ensure the Council maximises affordable housing options to meet local housing need and achieves the best return from its capital budget.

4. Supporting Information

Council build programme- background and context

- 4.1. In common with many other local authorities the Council transferred its housing stock in 2003. Initially the stock was transferred to Rushcliffe Homes, formed for the purpose of managing and maintaining the former council stock. Rushcliffe Homes subsequently merged with the Walbrook Housing Group and Metropolitan Housing Trust in 2007 to form Spirita. Spirita was formed as part of the Metropolitan Housing Partnership and later became known as Metropolitan Housing Trust Limited. In 2019, Metropolitan Housing Trust Limited merged with Thames Valley Housing to form Metropolitan Thames

Valley Housing (MTVH) who now own and manage the former council housing stock.

- 4.2. MTVH is a Registered Provider (RP) of affordable housing. They are the largest RP in the Borough, but not the only RP operating in the Borough. The Council is still responsible for managing the allocation of households to affordable social rented housing. The Council has nomination rights to RP stock in the Borough, secured by planning agreements and nominations agreements.
- 4.3. The Council currently owns no housing stock and no longer runs a Housing Revenue Account.
- 4.4. Over the last 15 years, successive governments have supported council house building programmes to varying degrees. This follows a period of limited council house building again under successive governments. The Housing Revenue Account subsidy regime was dismantled in 2012, allowing councils to keep surpluses on their rental income for reinvestment. Councils were also allowed to retain receipts from council house 'right to buy' sales in 2012 to fund development and acquisition programmes.
- 4.5. This has provided budget capacity for many stock owning councils to pursue house building programmes through their Housing Revenue Account (HRA). Locally, the unitary authorities of Nottingham, Derby and Leicester all have significant HRA funded council building and acquisitions programmes. Smaller local authorities such as Broxtowe and Ashfield also have development and acquisition programmes funded predominantly through HRA surpluses and Right to Buy receipts.
- 4.6. The vast majority of council house development and acquisition is provided by local authorities with existing HRA housing stock. However, there are examples of councils without existing stock developing or acquiring both affordable and market housing and there will be a number of drivers for this.
- 4.7. Current regulation allows councils to own up to 200 dwellings without the need to open a Housing Revenue Account. It is more common for a council without a HRA that wishes to acquire or develop affordable or even market housing to set up a bespoke company for this purpose.
- 4.8. The usual factors to support a council house building programme are as follows:
 - There is exceptional housing need and resultant temporary accommodation costs are a big financial drain as such there would be an overall cost saving;
 - Delivery by existing Registered Providers is limited;
 - The council has land assets that it wishes to develop;
 - The council wishes to develop bespoke housing; and
 - The council has funds which it wishes to invest in affordable housing.

Of the above factors, Rushcliffe has capital funds ringfenced for the provision of affordable housing. The Council may have some desire to develop bespoke

housing, which the report covers later on. However, none of the other factors above are relevant to the Borough, so the drivers for council house building are reduced within the context of Rushcliffe.

4.9. There are further considerations for the Council when assessing the options for a council affordable housing build programme. These are set out below:

- The Council has no management or maintenance capacity, so this would have to be bought in or delivered by way of a management agreement with a Registered Provider partner.
- A stock owning Council has Registered Provider status. A non-stock owning Council, like Rushcliffe Borough Council, will need to apply for Registered Provider status if it is intending to own stock. This is usually granted as a formality. A council owned company set for the purposes of delivering affordable housing will need to go through a formal application process for Registered Provider status, which is onerous and will require a raft of compliant policy documents.
- Any direct council owned housing will be let on a secure tenancy, irrespective of whether the Council operates a HRA. Secure tenants have a statutory Right to Buy and this presents a risk of stock loss at below market value.
- A council owned company is treated as a Registered Provider in this respect, so tenancies will be let on an assured tenancy with only the Right to Acquire applying. The discount under Right to Acquire is far less generous and is rarely taken up. A housing company registered as Registered Provider fully owned by the Council would have demonstrate regulatory compliance with Regulator of Social Housing, which will include setting up a Board and Constitution. This will absorb a significant resource.
- As the Council does not own any land suitable for development, the most effective delivery route would be through property acquisition. Acquired property generally presents a higher maintenance liability than new-build properties. The Council also has a target to be net zero by 2030. Any acquisitions would need to be considered in the context of that target.
- However, in spite of all the challenges, the Council has an uncommitted Affordable Housing budget of £4.5m and the acquisition or development of housing to let as council housing would produce a revenue income for the Council and potentially provide the opportunity to source specialist housing. It should be noted that a large proportion of the uncommitted balance is being considered to grant fund two MTVH schemes which would provide the council with nomination rights to social rented housing.

Affordable Housing capital budget

4.10. The Council's Affordable Housing capital budget 2023/2024 is £4.579m. A further £456k has been committed but not yet spent. The budget is made up of £0.638m residual receipt from the original sale of the council's housing stock and £3.941m commuted sums.

- 4.11. Of the commuted sum element of the budget, £3.653m was received as the result of an overage provision within the planning (section 106) agreement for the site known as Land East and West of Chapel Lane, Bingham (planning ref: 10/01962/OUT). The on-site affordable housing provision was reduced as a result of an independent viability assessment during the outline consent. As part of the planning agreement the Council would receive a payment in lieu should the site realise a greater value than assumed within the assessment, this is known as an overage.
- 4.12. In 2021/22 and 2022/23, the Council received the total sum of £3.780m from the Crown Estates (landowner). There is a time limit for the allocation of these sums, expiring on 8 April 2032. This amount of capital received through the overage is a far greater sum than the Council has received since the original transfer of the Council's housing stock. In 2018, the Council had less than £0.5m of commuted sums.
- 4.13. It is not a straightforward matter to allocate that amount of capital within the context of Rushcliffe for the following reasons:
- The majority of affordable housing in Rushcliffe is delivered by planning agreement, where there is no need for additional subsidy as the subsidy comes by way of the landowner/developer;
 - The Council has no land assets which it could develop for affordable housing;
 - Land values are high in Rushcliffe meaning it is difficult for Registered Providers to compete to acquire market sites;
 - The lead in time for development means that any allocation will take some time to come forward;
 - Most Registered Providers have funding awards from Homes England linked to delivery targets which they will tend to prioritise.
- 4.14. The main opportunity for the Council has been to continue to allocate its funds through the work of its RP partners in identifying and acquiring sites either on the open market or via their own land assets. These partners may then apply for funds from the Council to support the development of affordable housing.
- 4.15. This strategy was further endorsed as following Cabinet approval on 12th October 2021 Ade Regeneration consultants were appointed to undertake a High Level Options Review to consider options to maximise the benefits from future AH investments, including:
- Continue to provide grant to partners to develop schemes in return for nomination rights, specifically investing in existing struggling assets owned by partners such as Later Living Schemes as an alternative use of grant versus green field / new build housing development. This could deliver some 'quick win' solutions.

- Provide Council assets through a long-term lease to a partner RP, and grant, in return for the development and nomination rights for general needs housing.
 - Providing top-up payments to developers to increase affordable housing provision where viability issues mean they are below the required planning policy levels, or there is scope to exceed the planning policy numbers.
 - Working with partners to directly fund and deliver homes. But this is entirely predicated on there being land in the control of partners which there currently is not.
- 4.16. Several of the attractive options are dependent on the Council having access to land, for which none has been identified. Others require the willingness and collaboration of RP's who have access to land or developers who have plans to deliver houses in the Borough. Without controlling the land, all of the options are dependent on the cooperation of third parties.

Housing Needs

- 4.17. As planning authorities, district and borough councils prepare housing need assessments to inform their Local Plans. Paragraph 50 of the National Planning Policy Framework requires that local planning authorities plan for a mix of housing based on the needs of different groups in the community and identify the size, type tenure and range of housing that is required in particular locations.
- 4.18. The latest Housing Needs Assessment was produced by Icenl in 2020 to support the emerging Local Plan. This indicated an annual net unmet need for 294 affordable rented dwellings per year.
- 4.19. This figure appears quite high, but it is one of the lower figures relative to other district and boroughs across the County (see Table 2). It should also be noted that the affordable housing need figure was calculated in 2020 and considers new affordable housing completions over the previous three years to calculate the supply side.
- 4.20. Affordable housing completions since 2020/21 have increased significantly which has improved the supply side and we expect outturn levels at the 250 to 300 level for the next few years.

Table 1: NI 155 Affordable housing outturn v target (Rushcliffe)

Year	Outturn	Target
2019/20	154	171
2020/21	106	100
2021/22	114	100
2022/23	281	200
2023/24	On target	300

Source: Rushcliffe Borough Council

Table 2 Housing completions and level of affordable housing

	New housing completions 2017-2022	Affordable homes built (social rent, affordable rent, intermediate rent, shared ownership, affordable home ownership) 2017-2022	% Affordable housing
Ashfield	1,547	235	15
Bassetlaw	3,219	502	16
Broxtowe	1,147	92	8
Gedling	1,551	178	11
Mansfield	1,935	184	9.5
Newark and Sherwood	3,435	697	20
Rushcliffe	3,508	864	25
County total	15,105	2,752	18

Source: LPA housing monitoring reports and live tables on affordable housing supply December 2022 Gov.uk

- 4.21. However, since the pandemic the Council has seen increasing demands for affordable housing driven by a number of factors:
- Reduction in the size of the private rental sector (PRS)
 - Increasing rent levels within the PRS
 - Increase in affordability ratios income: house prices and increased mortgage costs
 - Increasing homelessness – the ending of tenancies by private landlords is a principal cause of homelessness and domestic abuse is a further major cause
 - Increasing demands from special Government resettlement and asylum programmes e.g. Syrian and Afghan resettlement schemes and Homes for Ukraine
 - Impact of ‘viability’ as a material planning consideration resulting in the reduction of affordable rented homes. Additional costs to meet enhanced building and fire safety standards and decarbonisation are likely to compound this further.
- 4.22. Table 3 below details the number of people on the housing waiting list (housing register) in each district of Nottinghamshire who are in housing need and seeking social housing accommodation, with each having different bedroom requirements depending upon family make up. Around 50% of those who apply to join the housing register across Nottinghamshire need one-bedroom accommodation.

Table 3 – Local Authority Housing Register (2021-22)

	Total households on housing register	Households on waiting list seeking homes			
		1 bedroom	2 bedrooms	3 bedrooms	3+ bedrooms
Ashfield	4,074	2,400	1,023	601	50
Bassetlaw	3,903	1,817	859	976	251
Broxtowe	2,795	1,579	507	403	306
Gedling	613	280	202	105	26
Mansfield	6,391	3,214	1,612	1,450	115
Newark & Sherwood	4414	1,517	988	390	58
Rushcliffe (at 15.8.23)	629 (584)	458 (466)	108 (73)	52 (41)	11 (4)
Total*	22,819	11,265	5,299	3,977	817

* Total households on the waiting list does not match the total number of bedrooms due to an unspecified number of bedrooms on the housing register
Source: DLUHC LA housing returns 2022

Specialist Housing Needs

- 4.23. There is a need for specialist housing in the Borough, in particular for adapted or adaptable housing. There are significant pressures on the Disabled Facilities Grant (DFG) service and budget. The Council’s Local Plan Part 2 Policy 12 (Housing Standards) states that in developments of more than 100 dwellings, at least 1% should comply with Building Regulation requirements M4(3)(a).
- 4.24. Within the Local Plan review the Council are proposing a more substantive policy but that will need to be borne out through the evidence base and viability assessment. The Council are also looking to use the affordable housing budget to fund additional adapted affordable housing provision on current and future sites. The Council has already recently financed the extension and adaptation of a 3 bedroom bungalow in Cropwell Bishop and there are also plans to fund some adapted dwellings on an identified MTVH site.
- 4.25. However, additional adapted dwellings will take some time to feed through to the adaptation waiting list as many applicants do not wish to move and owner occupier applicants would not be eligible for affordable housing. Ultimately this approach will assist in future proofing the stock in the Borough.
- 4.26. The County Council produced a Supported Housing Strategy in 2019, which outlined the housing needs of special needs groups across the County and sets out a four-year strategy for delivery. This identifies numerous groups who need some form of specialist accommodation and/or accommodation with support.

- 4.27. There is a general lack of suitable, affordable housing for those who need it in many parts of Nottinghamshire. This particularly is affecting younger people who cannot afford their own home, but there is a shortage of suitable accommodation for those in the later stages of life.
- 4.28. Nottinghamshire County Council plays a very important part of the housing system in Nottinghamshire, coordinating, commissioning, and market shaping activity to ensure housing is available for vulnerable people and those with care and support needs e.g., homelessness prevention, improving health and wellbeing, and integration support for resettled refugees. Given the prominence of housing in the Health and Wellbeing Strategy and other key strategic and policy frameworks including wider Integrated Care Systems it is envisaged that collaborative approaches will continue to develop which will assist with the overall housing provision.

5. Risks and Uncertainties

- 5.1. There is a time limit on the allocation of some commuted sums and if they are not allocated within that period they may need to be returned to the original party. This means the Council needs to be proactive in respect of budget allocation.
- 5.2. The report also identifies a range of risks and concerns that predicate against the Council looking to become a stock holding authority or develop and retain a smaller number of properties.

6. Implications

6.1. Financial Implications

The complexity and resources required to set up a council affordable housing build programme are considered to be prohibitive as set out in Section 4.9 – 4.16 Acquiring, for example, 20 properties and the land, even if land could be identified, would require a separate business plan and likely to place a debt burden upon the Council, and therefore a significant financial impact. The risks of not having the right governance and expertise in place can lead to the misappropriation of significant funds for example. Many local authorities that have a higher burden of debt are those that manage housing. This is evident in OFLOG data. The legacy impact of any borrowing is the cost of financing debt currently increasing as interest rates rise, not to mention other current cost drivers such as rising construction costs, with current construction supply side issues for both labour and materials. Debt management and rising inflation in their wider sense are real issues for some authorities that either have, or face the potential of, s114 notices.

The expiry date for the Affordable Housing Commuted Sum is 08/04/2032.

6.2. Legal Implications

There are no legal implications in this report.

6.3. Equalities Implications

There are no equalities implications in this report.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no Crime and Disorder implications in this report.

6.5. Biodiversity Net Gain Implications

There are no biodiversity implications in this report.

7. Link to Corporate Priorities

The Environment	Making homes more energy efficient can significantly reduce energy consumption, thereby reducing carbon emissions
Quality of Life	Strong partnership working will enable residents to have safer, healthier and live longer lives in which they are able to fulfil their aspirations. The continued supply of affordable housing will reduce the instability caused to families and communities by preventing homelessness
Efficient Services	The provision of social rented affordable housing will have a greater impact on supporting the Council's priorities and ensuring best value
Sustainable Growth	Effective partnership working to increase the supply of affordable housing will meet a range of needs across the borough which in turn will generate economic growth and deliver other significant benefits (New Homes Bonus).

8. Recommendations

It is RECOMMENDED that Communities Scrutiny Group scrutinises the information provided by officers on the Council's current approach to the provision of social housing.

For more information contact:	Donna Dwyer Strategic Housing Manager 0115 914 4275 ddwyer@rushcliffe.gov.uk
Background papers available for Inspection:	None
List of appendices:	Appendix 1 – Scrutiny Matrix

This page is intentionally left blank

Rushcliffe Borough Council – Scrutiny Matrix

Councillor Request for Scrutiny	
Proposed topic of scrutiny	Model for Provision of Social Housing
I would like to understand (key lines of enquiry)	<p><i>Rushcliffe no longer owns social housing, having disposed of it about 20 years ago, but is the “Housing Authority” for Rushcliffe, responsible for allocation of social housing and homelessness, working with Metropolitan Thames Valley Housing (MTVH) and other Registered Providers who own the social housing stock and operate the rental service. Many councils like Rushcliffe are registered providers themselves, rather than working only through third parties.</i></p> <p><i>After 20 years, is it time to review the model and consider whether Rushcliffe should once again become a registered provider to own and operate some housing?</i></p> <p><i>What are the pros and cons of the different models?</i></p> <p><i>With the current cost of living increases and high interest rates, is demand for social housing increasing, and if so is the current model able to respond? Are there currently financial pressures on the third party providers?</i></p> <p><i>New housing developments are providing “affordable” housing but this includes options like shared ownership. Does Rushcliffe currently have sufficient social housing for rent to meet demand? If not, would a change of model alter the situation?</i></p> <p><i>Are there specific types of social housing where there is a particular shortage? For instance: homes for single person households, bungalows, accommodation adapted for mobility issues, warden assisted homes for older people, homes for young families. Would a change of model give flexibility to develop options for this?</i></p> <p><i>Would Rushcliffe be able to provide a more supportive and responsive service with a different model?</i></p> <p><i>Rushcliffe currently has over £5M of ringfenced capital budgeted for the provision of affordable housing. Some of this dates back to sale of council houses before 2003, and the rest has been contributed by developers in lieu of providing affordable housing in situ on new housing estates, i.e. so that the homes can be built elsewhere. Would the option of using this funding directly be of benefit to residents?</i></p>

I think this topic should be scrutinised because (please tick)	<input checked="" type="checkbox"/>	Poor Performance Identified
	<input checked="" type="checkbox"/>	Change in Legislation or Local Policy
	<input checked="" type="checkbox"/>	Resident Concern or Interest
	<input type="checkbox"/>	Cabinet Recommendation
	<input type="checkbox"/>	Links to the Corporate Strategy
	<input type="checkbox"/>	Other (please state reason)

Officer Consideration of Councillor Request for Scrutiny

Officer Feedback (please tick)	<input checked="" type="checkbox"/>	Officer Comment
- Issue already being addressed	<input type="checkbox"/>	
- Issue has already been considered in the last 2 years?	<input type="checkbox"/>	
- Issue is a legal matter	<input type="checkbox"/>	
- Issue of a complaint investigation	<input type="checkbox"/>	
- Issue is a staffing matter	<input type="checkbox"/>	
- There is an alternative way of dealing with the issue	<input type="checkbox"/>	
Is there sufficient capacity		
- Scrutiny Work Programme?	<input type="checkbox"/>	
- Officer Resources?	<input type="checkbox"/>	
Recommendation		
Lead Officer		
Proposed Timescale for Scrutiny and Scrutiny Group		



Communities Scrutiny Group

Thursday, 5 October 2023

Review of Smoke Control Areas

Report of the Director – Neighbourhoods

1. Purpose of report

- 1.1. This report provides the background information required to enable members to input and shape a public consultation on revised smoke control orders within the Borough.

2. Recommendation

It is RECOMMENDED that the Communities Scrutiny Group:

- a) considers on the options provided for smoke control areas within the Borough
- b) indicates a preferred option enabling public consultation to take place
- c) recommends its preferred option to Cabinet for adoption.

3. Reasons for Recommendation

The report sets out four options for the Council to consider in Paragraph 4.22. The Government's Air Quality Strategy priorities include the reduction of pollution from domestic burning through Smoke Control Areas (SCAs) and use of cleaner fuels. The strategy clearly states the Government's expectation that local authorities use their powers to reduce PM_{2.5} and that all councils should support the delivery of national PM_{2.5} targets by taking action to reduce emissions from sources within their control. It is therefore officers' recommendation that the Council revokes the existing Smoke Control Orders and declares a new Smoke Control Order to cover the entire Borough (Option D).

4. Supporting Information

- 4.1. In 1952, London experienced a smog which lasted for five days, leading to the Government passing the first Clean Air Act in 1956. This was an important moment in public health. This Act allowed local authorities to declare parts of their areas to be "smoke control areas". A great deal of work was done by local authorities to make sure that open fireplaces were replaced by appliances that used only "smokeless" fuels – either solid fuel or gas, and grants were given towards the cost of the work. The designation of SCAs in towns and cities in the UK made a dramatic difference in air quality, with smoke and sulphur dioxide levels greatly reduced. The 1956 and 1968 Clean Air acts were repealed by the Clean Air Act 1993 which consolidated and

extended the provisions of the earlier legislation. The Environment Act 2021 makes amendments to the Clean Air Act 1993 as outlined in this report.

- 4.2. Air pollution can impact health when there is exposure over a lengthy period increasing the risk of those being exposed to it of developing certain health conditions.
- 4.3. One of the main pollutants of concern is particulate matter (PM), with the smaller particles, referred to as PM_{2.5}, identified by the World Health Organization as the most damaging to human health. It is accepted that there is no safe level of PM_{2.5} pollution so any reductions of emissions of this pollutant, especially in locations close to where people live and are exposed to it, will be beneficial to health.
- 4.4. In the UK, domestic burning accounted for 27.3% of total PM_{2.5} emissions in 2021. The use of wood alone in domestic indoor burning activities accounted for 20.5% of PM_{2.5} emissions in the same year. The level of exposure to pollution from this source is potentially much greater than the emissions from industry and manufacturing because people live much closer to home chimneys than they do from most industrial sources, so there is less opportunity for the pollution to disperse before people are exposed to it. Pollution is also released directly into the home when open fires and stoves are used.
- 4.5. The emissions from a small number of solid fuel appliances, especially if they are operated in a manner that does not comply with the regulations, could raise short term pollution levels enough to directly impact the health of vulnerable individuals.
- 4.6. The Air Quality Strategy for Nottingham and Nottinghamshire 2020–2030 provides estimated reductions in mortality and morbidity across Nottinghamshire for a ten-year period from 2017 if levels of particulate matter (PM_{2.5}) were reduced to lower than 12µg m⁻³. The modelled estimates for Rushcliffe indicate a reduction of approximately 1200 cases of heart disease, respiratory illness, stroke, diabetes and lung cancer and a reduction in the annual number of deaths of 113 with a reduction in PM_{2.5} exposure. The corresponding estimated cumulative costs avoided is in the region of £12.75million for PM_{2.5}.
- 4.7. According to the UK Health Security Agency (formerly Public Health England), poor air quality is considered to be the largest environmental risk to public health in the UK. Air pollution can cause health impacts across a person's lifetime, contribute to health inequalities and impact on NHS and social care costs.
- 4.8. The vision for the Air Quality Strategy for Nottingham and Nottinghamshire 2020-2030 is for all of Nottinghamshire residents and visitors to have clean air that allows them to lead healthy and fulfilling lives. Strategic objective three relates to reducing, minimising and preventing emissions from all sources and activities, including by enforcing existing (e.g., smoke control orders) and any

new legislation that minimises emissions from commercial and domestic solid fuel combustion.

- 4.9. The Rushcliffe Borough Council Climate Change Strategy 2021-30 highlights the Council's commitment to tackling climate change and to making a major contribution to reducing greenhouse gas emissions for the Borough.
- 4.10. The Rushcliffe Air Quality Action Plan 2021-2026 includes a measure to increase residents' awareness of changes in legislation that seek to improve air quality and take enforcement action, as necessary. Once a final decision is made by Cabinet on the preferred option it is anticipated that a comprehensive media campaign will be undertaken to increase public awareness.
- 4.11. The Strategy states that local authorities should keep the boundaries of existing SCAs under review, especially if development has taken place outside of the boundaries. They should consider whether it would be beneficial to declare a new SCA. Local authorities with SCA are expected to enforce restrictions which apply within those areas. All local authorities should enforce solid fuel regulations - fuel sold for domestic purposes should have the 'Ready to Burn' logo. No retailers should be selling traditional (bitumous) coal for indoor domestic burning from 1 May 2023. It should be noted that it is expected that this element will be enforced by Trading Standards colleagues at Nottinghamshire County Council.
- 4.12. Government expects that in most cases providing information to householders will be sufficient to address smoke emissions in SCA. However, where this is not the case, it is expected local authorities will enforce the SCA.
- 4.13. The Government is not considering a ban on domestic burning in England as there is recognition that some householders are reliant on solid fuel burning as a primary source for heating, hot water and cooking.

What is a Smoke Control Area?

- 4.14. Anyone responsible for premises within a SCA must not:
 - Allow smoke emissions from the chimney of a building;
 - Obtain and use solid fuel (including logs), other than authorised fuel; and
 - Tradespersons must not sell by delivery solid fuel, other than authorised fuel to premises located within the SCA.
- 4.15. Exemptions do apply however, and Department for the Environment, Food and Rural Affairs (DEFRA) approved 'authorised fuels' can be used within SCAs because they burn either without causing smoke or are fuels that contain less harmful pollutants. In addition, 'exempt appliances' that are specifically listed in regulations can be used in SCAs because they have passed tests to demonstrate that, when used correctly and with the fuel for which they are designed, they are capable of burning solid fuel without emitting harmful smoke. For example, certain wood-burning stoves would qualify as exempt appliances. It should be noted that there are no

Government funded grants available to support the replacement of unauthorised appliances.

- 4.16. Unauthorised fuel, such as logs or coal, cannot be burnt in an open fireplace or wood burning appliance within a SCA. These fuels produce smoke containing harmful pollutants which have an impact on health and the environment. It should also be noted that it is already an offence to acquire or sell unauthorised fuels e.g. logs to be used within a SCA.
- 4.17. Permanent moorings including moored vessels may be entitled to apply for reimbursement from the Council to upgrade their solid fuel appliance to comply with the SCA requirements (up to 70% of the total cost). There is a legal duty for the Council to reimburse permanent moorings only. RBC does not hold specific records on numbers of permanent moored vessels in the Borough. However, an initial data query would indicate there are likely to be fewer than 30 (located in Barton in Fabis, Ratcliffe on Soar and Wilford Lane West Bridgford).

Existing Smoke Control Area coverage across Rushcliffe

- 4.18. The existing SCA coverage includes parts of West Bridgford and Edwalton as shown by the shaded area in Appendix 1. This area was declared under a series of nine separate Smoke Control Orders in the 1970s and early 1980s.

Environment Act 2021 Changes

- 4.19. The Environment Act 2021 made amendments to The Clean Air Act 1993 and came into force on 1 May 2022. It:
- introduced civil financial penalties for smoke emissions in a SCA;
 - strengthened the offences in relation to the sale of certain solid fuels for use in SCAs;
 - provision to include moored vessels in a SCA (although this is not a requirement).
- 4.20. Before making a smoke control order there is a legal requirement for the Council to undertake a public consultation exercise which, in addition to the normal channels, will include publishing a notice detailing the proposals in the London Gazette and a local newspaper. The Council is required to consider any objections which currently will be brought as part of a final report and recommendation to the meeting of the Cabinet in January 2024. An order shall come into operation not less than six months after it is made. The consultation on any proposed changes to the SCA coverage across the Borough will last for at least four weeks and will be widely publicised through our usual communication channels.
- 4.21. It is currently proposed that the Council will need to consider one of the following options:

Option A - Do nothing / Leave unchanged – coverage remains limited to parts of West Bridgford and Edwalton;

Option B - Revoke the existing Smoke Control Orders and seek to declare a Smoke Control Order to cover the whole of West Bridgford, Gamston and Edwalton;

Option C - Revoke the existing Smoke Control Orders and seek to declare new Smoke Control Orders to cover the whole of West Bridgford, Gamston and Edwalton and the larger town and villages areas across the Borough including Bingham, East Leake, Keyworth, Ruddington, Radcliffe on Trent and Cotgrave;

Option D - Revoke the existing Smoke Control Orders and seek to declare a Smoke Control Order to cover the entire Borough. Within this option the Council can also decide whether to include moored vessels in the Smoke Control Order.

Enforcement

- 4.22. The Council will need to develop an underlying policy to support enforcement action. This will sit underneath the Council's Corporate Enforcement Policy and will detail how the civil financial penalty provisions will be implemented in the SCA. The Environment Act 2021 enables the Council to issue a civil financial penalty of between £175 to £300 if smoke is emitted contrary to the requirement of the smoke control order. It is proposed that the penalty level will be based on the seriousness and repetition of offences with the statutory minimum (£175) for the first offence, increasing to £225 then £300 for subsequent offences.
- 4.23. It is expected that enforcement will be based on intelligence and complaints rather than proactive checks and will need to follow the Council's Corporate Enforcement Policy which encourages a reasonable and proportionate approach. An indicative outline procedural flowchart is provided in Appendix 2.
- 4.24. Once smoke is observed emanating from a chimney within the smoke control order area, the Act enables the Council to issue an Improvement Notice to the occupier of the property. This notice will contain information including the SCA restrictions, when smoke was seen, how the person can burn solid fuels in a SCA legally, and what happens next. If smoke is again observed, then the Council will issue a Notice of Intent to the building occupier which informs them that there is enough evidence to prove that smoke was emitted from their chimney in a SCA, when the smoke was observed and the Council's intention to issue a civil penalty. The occupier has the right to object in writing to the proposed financial penalty within 28 days from the day after the notice was given and must do so with supporting evidence. If the building occupier does not object to the notice of intent or if the objection is not accepted a final

notice will be issued detailing the amount of the fixed penalty to be paid within 28 days.

- 4.25. The declaration of a SCA does not impact on outdoor barbeques, chimineas or pizza ovens unless the appliance uses a chimney on the roof of a building e.g., a summerhouse. Garden bonfires are not prohibited in an SCA however existing statutory nuisance laws will still apply.

5. Risks and Uncertainties

Option	Potential benefits	Potential risks
A	<p>Retain existing SCAs</p> <p>No change to existing system</p> <p>No impact on residents during a cost of living crisis</p>	<p>RBC not aligned with the Government Air Quality Strategy.</p> <p>RBC not aligned to corporate objectives</p> <p>Perceived inequality across the Borough.</p> <p>Not making changes to the existing coverage could be perceived by residents as a lack of interest in taking measures to improve air quality and public health</p> <p>Existing SCAs have not been reviewed since their inception in the 1970s and 1980s. The urban areas defined in the SCAs have expanded significantly in that time.</p>
B	<p>Reviewing and updating the smoke control orders will ensure they are brought up to date.</p> <p>Limited changes to the existing system</p> <p>Limited impact on residents during a cost of living crisis</p>	<p>RBC not aligned with the Government Air Quality Strategy.</p> <p>RBC not aligned to corporate objectives</p> <p>Perceived inequality across the Borough</p> <p>Not making significant changes to the existing coverage could be perceived by residents as a lack of interest in taking measures to improve air quality and public health</p>
C	<p>New Orders focussed on more urban areas of the borough where higher concentrations of pollution would be expected and the majority of people live but minimising impact in rural areas of the Borough.</p> <p>Better alignment with the Governments Air Quality Strategy and the Councils corporate objectives</p> <p>Demonstrating readiness to take action to improve public</p>	<p>Perceived inequality across the Borough.</p> <p>Extending coverage could be viewed negatively particularly due to current cost of living crisis owing to the impact of higher fuel costs and new approved replacement appliances.</p> <p>Anybody who buys or sells controlled solid fuels in a SCA is guilty of an offence and could be prosecuted except if it is for use in an approved fireplace. In effect anyone who wishes to continue to burn a controlled fuel such as logs will need to ensure that they are doing so using an approved appliance. It is anticipated that it would cost in excess</p>

	<p>health outcomes</p> <p>Increasing coverage will reduce smoke emissions and therefore improve public health outcomes for the majority of residents</p>	<p>of £1,500 to upgrade each appliance.</p> <p>Impact on residents with open fireplaces and wood burning appliances and existing business that sell and deliver logs within the borough.</p>
D	<p>Alignment with the Governments Air Quality Strategy and the Council corporate objectives.</p> <p>Demonstrating readiness to take action to improve public health outcomes.</p> <p>Equality across the Borough</p> <p>Increasing coverage will reduce smoke emissions and therefore improve public health outcomes for all residents</p>	<p>Extending coverage could be viewed negatively particularly due to current cost of living crisis.</p> <p>Anybody who buys or sells controlled solid fuels in a SCA is guilty of an offence and could be prosecuted except if it is for use in an approved fireplace. In effect anyone who wishes to continue to burn a controlled fuel such as logs will need to ensure that they are doing so using an approved appliance. It is anticipated that it would cost in excess of £1,500 to upgrade each appliance.</p> <p>Even greater impact on residents with open fireplaces and wood burning appliances and existing business that sell and deliver logs within the borough.</p>

6. Implications

6.1. Financial Implications

6.1.1. Implementation costs will be covered by the DEFRA Air Quality New Burdens Grant for 2022/23 (£11,710 was received in June 2023).

6.1.2. Permanent moorings including moored vessels may be entitled to apply for reimbursement from the Council to upgrade their solid fuel appliance to comply with the SCA requirements (up to 70% of the total cost). It is believed that the cost of the upgrade could be as much as £3k and current estimates suggest we have a maximum of 30 such moorings. It has not yet been confirmed if DEFRA will provide additional funding for this and therefore this could be a cost burden for the Council. It is however an option to exclude moored vessels from the SCA which would mitigate this risk.

6.1.3. Any associated enforcement costs will be contained within existing budgets.

6.2. Legal Implications

This report supports the use of statutory powers to deal with offences of a smoke control order.

6.3. Equalities Implications

An Equalities Impact Assessment has been undertaken which identified no major or adverse impact (Appendix 4).

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

The implications of the Crime and Disorder Act have been considered.

6.5. Biodiversity Net Gain

There are no Biodiversity Net Gain implications contained within this report.

7. Link to Corporate Priorities

The Environment	Reduction of harmful pollutants to the environment and supports climate change strategy
Quality of Life	Protection of public health
Efficient Services	None
Sustainable Growth	None

8. Recommendations

It is RECOMMENDED that the Communities Scrutiny Group:

- a) considers on the options provided for smoke control areas within the Borough
- b) indicates a preferred option enabling public consultation to take place
- c) recommends its preferred option to Cabinet for adoption.

For more information contact:	Geoff Carpenter Service Manager - Public Protection gcarpenter@rushcliffe.gov.uk 0115 9148229
Background papers available for Inspection:	Nottinghamshire Air Quality Strategy RBA Air Quality Status Report 2023 Rushcliffe Borough Council Climate Change Strategy 2021-30 Rushcliffe Air Quality Action Plan 2021-2026 Smoke Control Areas - do you know the rules? A practical guide (defra.gov.uk)

List of appendices:

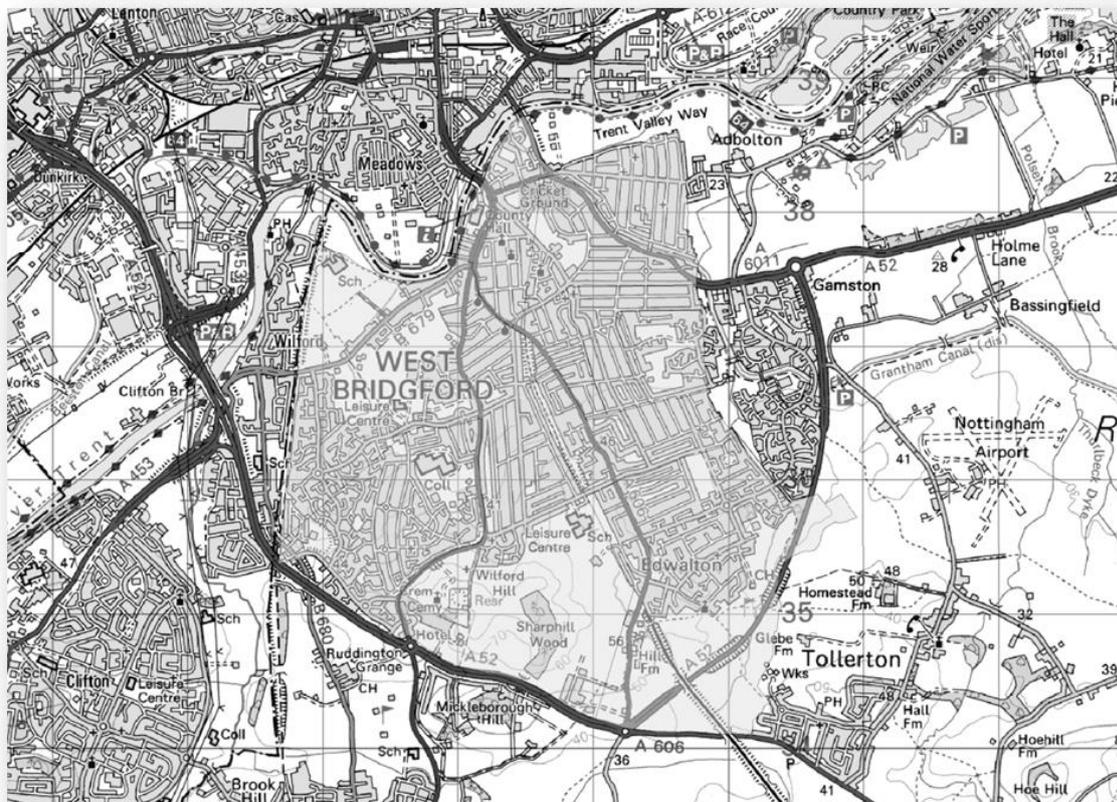
Appendix 1- current extent of SCA coverage across the Borough

Appendix 2 – outline procedure for issuing a fixed penalty notice

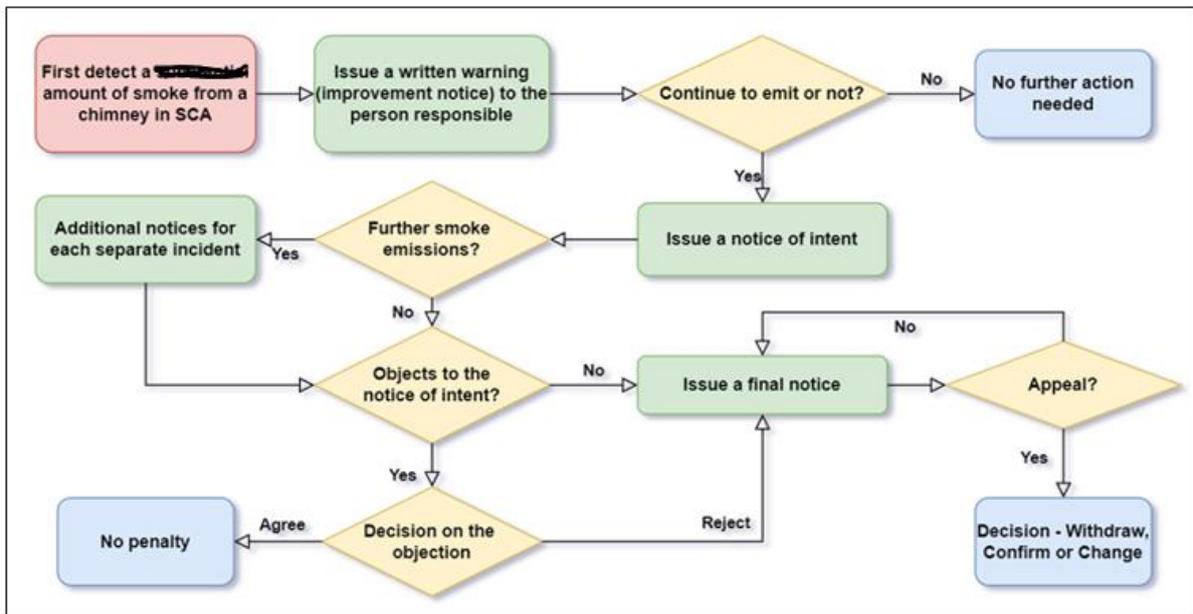
Appendix 3 – Scrutiny Matrix

Appendix 4 – Equality Impact Statement

Appendix 1 1 Shaded (grey) area depicts current extent of SCA coverage across the Borough



Appendix 2 Outline Procedure for Issuing a Fixed Penalty Notice



This page is intentionally left blank

Rushcliffe Borough Council – Scrutiny Matrix

Officer Request for Scrutiny			
Geoff Carpenter – Service Manager, Public Protection			
Proposed topic of scrutiny	Smoke Control Areas in the Borough		
I would like to understand (key lines of enquiry)	<p>Smoke Control Area coverage across the Borough is currently limited to an area of West Bridgford and Edwalton which was declared under various orders in 1970s and '80s. The Environment Act 2021 came into force on 1 May 2022 and amends the Clean Air Acts by introducing civil penalties for smoke emissions in a smoke control areas and strengthens offences in relation to the sale of certain solid fuels. The amendments are aimed at helping local authorities reduce pollution from domestic burning particularly very fine particulates.</p> <p>Scrutiny of this topic will provide Councillors with the information and understanding needed to shape the Council's emerging policy on how the new provisions will be implemented across the Borough.</p>		
I think this topic should be scrutinised because (please tick)	<input type="checkbox"/>	Poor Performance Identified	
	<input checked="" type="checkbox"/>	Change in Legislation or Local Policy	
	<input checked="" type="checkbox"/>	Resident Concern or Interest	
	<input type="checkbox"/>	Cabinet Recommendation	
	<input checked="" type="checkbox"/>	Links to the Corporate Strategy	
	<input type="checkbox"/>	Other (please state reason)	
Officer Consideration of Request for Scrutiny			
Officer Feedback (please tick)			
- Issue already being addressed	<input checked="" type="checkbox"/>	Issue of a complaint investigation	<input checked="" type="checkbox"/>
- Issue has already been considered in the last 2 years?	<input checked="" type="checkbox"/>	Issue is a staffing matter	<input checked="" type="checkbox"/>
- Issue is a legal matter	<input checked="" type="checkbox"/>	There is an alternative way of dealing with the issue	<input checked="" type="checkbox"/>
Is there sufficient capacity ...			

- Scrutiny Work Programme?	✓	
- Officer Resources?	✓	
Recommendation	Schedule for scrutiny	
Consideration of Request for Scrutiny at COG		
Public Involvement / engagement?		
Expert witnesses?		
Portfolio holder?		
Lead Officer?	Geoff Carpenter	
Proposed Timescale for Scrutiny and Scrutiny Group	October 2023 for Communities Scrutiny Group	

EQUALITY IMPACT ASSESSMENT FORM

Name and brief description of proposal/project / policy / service being assessed:

Review of Smoke Control Areas.

The Environment Act 2021 made amendments to The Clean Air Act 1993 and came into force on 01 May 2022. This fundamentally changes how smoke control orders work and how the rules are enforced by local authorities.

Information used to analyse the effects of equality:

	Could particular benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups	n/a	n/a		
Men, women (including maternity/pregnancy impact), transgender people	X	n/a	Reductions in mortality, heart disease, respiratory illness, stroke, diabetes and lung cancer arising from improved air quality.	
Disabled people or carers	n/a	n/a		
People from different faith groups	n/a	n/a		
Lesbian, gay or bisexual	n/a	n/a		
Older or younger people	X	n/a	Reductions in mortality, heart disease, respiratory illness, stroke, diabetes and lung cancer arising from improved air quality	
Other (marriage/civil partnership. Looked after	n/a	n/a		

children, cohesion/good relations, vulnerable children/adults)				
--	--	--	--	--

OUTCOME(S) OF EQUALITY IMPACT ASSESSMENT: *(delete as appropriate)*

n/a

Arrangements for future monitoring of equality impact of this policy/proposal/project:
Note when assessment will be reviewed (e.g. review assessment in 6 months or annual review).

n/a

Names of officers who conducted EIA and date

Pa
 09
 086

Geoff Carpenter
 Service Manager- Public Protection

Approved by:  **Date:13/9/23**
(manager signature)



Communities Scrutiny Group

Thursday, 5 October 2023

Work Programme

Report of the Director of Finance and Corporate Services

1. Summary

- 1.1. The work programmes for all Scrutiny Groups are created and managed by the Corporate Overview Group. This Group accepts and considers Scrutiny Matrices from both officers and councillors which propose items for scrutiny. If those items are accepted following discussion at the Corporate Overview Group, they are placed on the work programme for one of the Council's Scrutiny Groups.
- 1.2. The work programme is also a standing item for discussion at each meeting of the Communities Scrutiny Group. In determining the proposed work programme due regard has been given to matters usually reported to the Group and the timing of issues to ensure best fit within the Council's decision-making process.
- 1.3. The work programme is detailed in this report for information only so that the Group is aware of the proposed agenda for the next meeting. The work programme does not take into account any items that need to be considered by the Group as special items. These may occur, for example, through changes required to the Constitution or financial regulations, which have an impact on the internal controls of the Council.
- 1.4. The future work programme was updated and agreed at the meeting of the Corporate Overview Group on 5 September 2023, including any items raised via the scrutiny matrix.

Members are asked to propose future topics to be considered by the Group, in line with the Council's priorities which are:

- Quality of Life;
- Efficient Services;
- Sustainable Growth; and
- The Environment

2. Recommendation

It is RECOMMENDED that the Group agrees the work programme for next year 2023 – 2024 as set out below:

18 January 2024

- [Flight Paths](#)
- Work Programme

21 March 2024

- [Streetwise In-Sourcing](#)
- Carbon Management Plan
- Work Programme

xx June 2024

- [Use of Community Facilities](#)
- Work Programme

3. Reason for Recommendation

To enable the Council's scrutiny arrangements to operate efficiently and effectively.

For more information contact:	Pete Linfield Director of Finance and Corporate Services 0115 914 8349 plinfield@rushcliffe.gov.uk
Background papers Available for Inspection:	None.
List of appendices (if any):	None.