



# HARTLEPOOL BOROUGH COUNCIL

## OFFICER DECISION RECORD

<b>Department:</b>	Neighbourhoods and Regulatory Services
<b>Division:</b>	Neighbourhood Services – Transportation & Infrastructure Section
<b>Date of Decision:</b>	24 <sup>th</sup> November 2020
<b>Officer Making Decision:</b>	Tony Hanson
<b>Subject / Description &amp; Reason for Decision:</b>	<p>Public Path Diversion Order</p> <p>Application to propose a diversion of Public Footpath No 3, Seaton Carew Sports &amp; Social club, Seaton parish</p> <p>Powers of the Council under the Town &amp; Country Planning Act 1990, Wildlife &amp; Countryside Act 1981 and the Highways Act 1980 have been delegated to the Director of Neighbourhoods and Regulatory Services.</p> <p>It is recommended that the Director approves the diversion of Public Footpaths No.3, within the curtilage of Seaton Carew Sports &amp; Social Club, in accordance with the Highways Act 1980, Section 119 and the implementation of the making of the order and its subsequent confirmation, as shown in the plans, placed at the end of this report;</p> <p>If no objections to the diversion order are received, or if any objections which are received are subsequently withdrawn, the Order to be placed with the Chief Solicitor for confirmation; and,</p> <p>If any objections to the diversion order are received, and not subsequently withdrawn, the Order be referred to the Secretary of State for confirmation</p> <p>Report and appendices provided for information and reference</p>
<b>Type of Decision:</b>	Non Key
<b>Nature of Delegation Being Exercised:</b>	Officer Delegated Authority – DRN246 (Part 3 Page 123)
<b>Alternative Options Considered &amp; Rejected:</b>	No other options available during COVID-19 Pandemic

ODR No. :

Any Declared Register of Interest      No

**OFFICER WITH THE DELEGATION**

NAME \_\_\_\_\_

Tony Hanson

POSITION: Director Neighbourhoods and Regulatory Services

DATE: \_\_\_\_\_

**IN CONSULTATION WITH:**

Hayley Martin, Chief Solicitor and Chris Scaife, Countryside Access Officer

**Report to:** Director of Neighbourhoods & Regulatory Services

**Subject:** PROPOSED DIVERSION OF PUBLIC FOOTPATH No 3, SEATON CAREW SPORT & SOCIAL CLUB, SEATON PARISH

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**1. TYPE OF DECISION**

1.1 Non Key: requiring decision

**2. PURPOSE OF REPORT**

2.1 This report seeks the approval for the making and subsequent confirmation of the diversion of Public Footpath No 3, Seaton Carew Sport & Social Club, Seaton Parish (as shown in the plan, placed at the end of this report), in accordance with section 119, Highways Act 1980

**3. BACKGROUND**

3.1 On 21<sup>st</sup> March 2019 the Highways Authority, known as Hartlepool Borough Council (the Council), received an application to divert a section of Public Footpath No.3 that runs through the central area of Seaton Carew Sports & Social Club (the Club). The plan submitted, as part of the application, is shown in **Appendix 1**.

3.2 The application was made by the Club to help facilitate a safer and more enjoyable route for walkers to use. At present the public walk through the central area of the sports club facilities and the diversion proposes a more direct route between the housing estate known as The Dunes and Tees Road (A178).

3.3 The Club are tenants to the club grounds and the Council are the landowners of these said grounds. The Council have no objections to the application of this diversion.

**4. PROPOSALS**

4.1 The proposed diversion, shown in the attached plan, is to re-route:

- The easterly section of Public Footpath No.3, from a route through the centre of the club grounds, onto a route at the end and within the southern boundary of the club grounds

## **5. RISK IMPLICATIONS**

- 5.1 There are no risk implications, in relation to this application to divert the aforementioned footpath.

## **6. FINANCIAL CONSIDERATIONS**

- 6.1 The cost of diversion to the Club will be approximately £2,500.00, covering the full costs associated with a diversion order and confirmation. Indemnities for these costs have been received from the Club.

- 6.2 Hartlepool Borough Council have considered and concluded that the Club will pay for the full cost, as quoted to them in 2019.

## **7. LEGAL CONSIDERATIONS**

- 7.1 Under Section 119 of the Highways Act 1980 several criteria must be met before a diversion order is made. The order making authority must be satisfied that:

- It is expedient to divert the path in the interests of the public or the landowner, occupier or lessee of the land crossed by the path.
- The diversion does not alter the termination of the path other than to another point on the same path or on another highway (including rights of way) connected with it and which is substantially as convenient to the public.

- 7.2 Under the same section of the Highways Act 1980 the Council or (if the diversion order is opposed) an Inspector must apply a number of legal tests. The Council or Inspector must be satisfied that:

- The diversion is expedient in the interests of the persons stated in the order.
- The path will not be substantially less convenient to the public as a consequence of the diversion.
- It is expedient to confirm the order having regard to the effect it will have on public enjoyment of the path as a whole, on the land served by the existing path, and on the land affected by the new path taking into account the provision for payment of compensation. In this case no such provision, for compensation, is necessary, as the proposed

diversion will run within the same land ownership as the existing path, to be diverted.

### **Consideration of Legal Tests**

7.3 When looking at the legal tests as provided within the Highways Act 1980, Sections 119, 119(6), 119(6A), the following questions have been considered:

7.4 Landowner/Public Interest

The application was made by the lessees in their own interest. The section of the diversion is required; to give the public routes to use that allow less confusion and greater accessibility to a wide section of the community and the added value of linking to the newly created England Coast Path National Trail, as well as other existing public rights of way, thus allowing the public to link to a far greater number of public and coastal access routes as well as Seaton Common & Dunes Local Nature Reserves and Teesmouth National Nature Reserve, in a safe and comfortable way.

7.5 The Council's consideration of expediency

The Council may consider it expedient to divert the afore-mentioned path on the grounds that the newly diverted path will provide a safe route between The Dunes Housing Estate and Tees Road (A178) and so reducing the need to walk through the middle of the Club grounds and to continue to link with a National Trail thus providing the users with quieter, safer and more enjoyable experiences.

7.6 Termination Points

The diversions do not alter the termination points of the paths other than to other points on the same path or highway

7.7 Consideration of the order to divert (Section 119(6)).

When considering the order of diversions, the Council may consider that the order looks towards a more positive addition to the rights of way network be in the public in general as well as local landowners. It will serve a wide section of the community, adding to the safety and sustainability of the highway infrastructure.

7.8 Consideration of the Rights of Way Improvement Plan (Sections 119(6A))

When looking at the legal tests for diversion with regards to the Rights of Way Improvement Plan, the Council feels that in this case there are no material provisions to be met, above normal management of the conclusion of the orders. The diverted route is already leased and managed by the existing Tenants of the land, on which the Sports & Social Clubs sits.

## **8. EQUALITY AND DIVERSITY CONSIDERATIONS**

- 8.1 There are no Equality and Diversity implications, in relation to this application to divert the afore-mentioned footpath

## 9. STAFF CONSIDERATIONS

- 9.1 There are no staff considerations, in relation to this application to divert the afore-mentioned footpath

## 10. ASSET MANAGEMENT CONSIDERATIONS

- 10.1 There are no asset management considerations, in relation to this application to divert the afore-mentioned footpath

## 11. CONSIDERATION OF BIODIVERSITY

- 11.1 It is believed that there are no biodiversity issues or constraints in relation to the diversion of the Public Footpath No. 3 that runs through the central section of the Club grounds

## 12. CONSULTATIONS

- 12.1 Full informal consultation were carried out with all relevant parties, including the relevant user groups. None of these informal consultees raised any objections to the proposals concerned. A full list of consultees is provided as **Appendix 2**.

## 13. SECTION 17

- 13.1 Section 17 of the Crime and Disorder Act 1998 requires Local Authorities and Police Authorities to consider the community safety implications of all their activities.

- 13.2 Section 17 states:
- *'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area'.*

13.3 The Community Safety Implications, in respect of the diversion of the public footpath at Seaton Carew Sports & Social Club, Seaton Carew, have been taken into account and that all has been reasonably done to prevent crime and disorder.

## **14. RECOMMENDATIONS**

14.1 That the Director:

- Approves the diversion of Public Footpaths No.3, within the curtilage of Seaton Carew Sports & Social Club, in accordance with the Highways Act 1980, Section 119 and the implementation of the making of the order and its subsequent confirmation, as shown in the plans, placed at the end of this report;
- If no objections to the diversion order are received, or if any objections which are received are subsequently withdrawn, the Order to be placed with the Chief Solicitor for confirmation; and,
- If any objections to the diversion order are received, and not subsequently withdrawn, the Order be referred to the Secretary of State for confirmation

## **15. REASONS FOR RECOMMENDATIONS**

15.1 Highways Act 1980, section 119 requires a competent authority to consider the authorisation of a diversion order of a public footpath if they are satisfied that it meets the required legal tests and considerations as described and set out in section 119 (1) and (6).

15.2 The public footpath is designated as Public Footpaths No.3, Seaton Parish, and is located within the grounds of Seaton Carew Sports & Social Club. The land is owned by the Council and tenanted by the Club

## **16. BACKGROUND PAPERS**

16.1 There are no background papers, in relation to this application to divert the afore-mentioned footpath

## **17. CONTACT OFFICERS**

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## 17.2 AUTHOR OF REPORT

Chris Scaife

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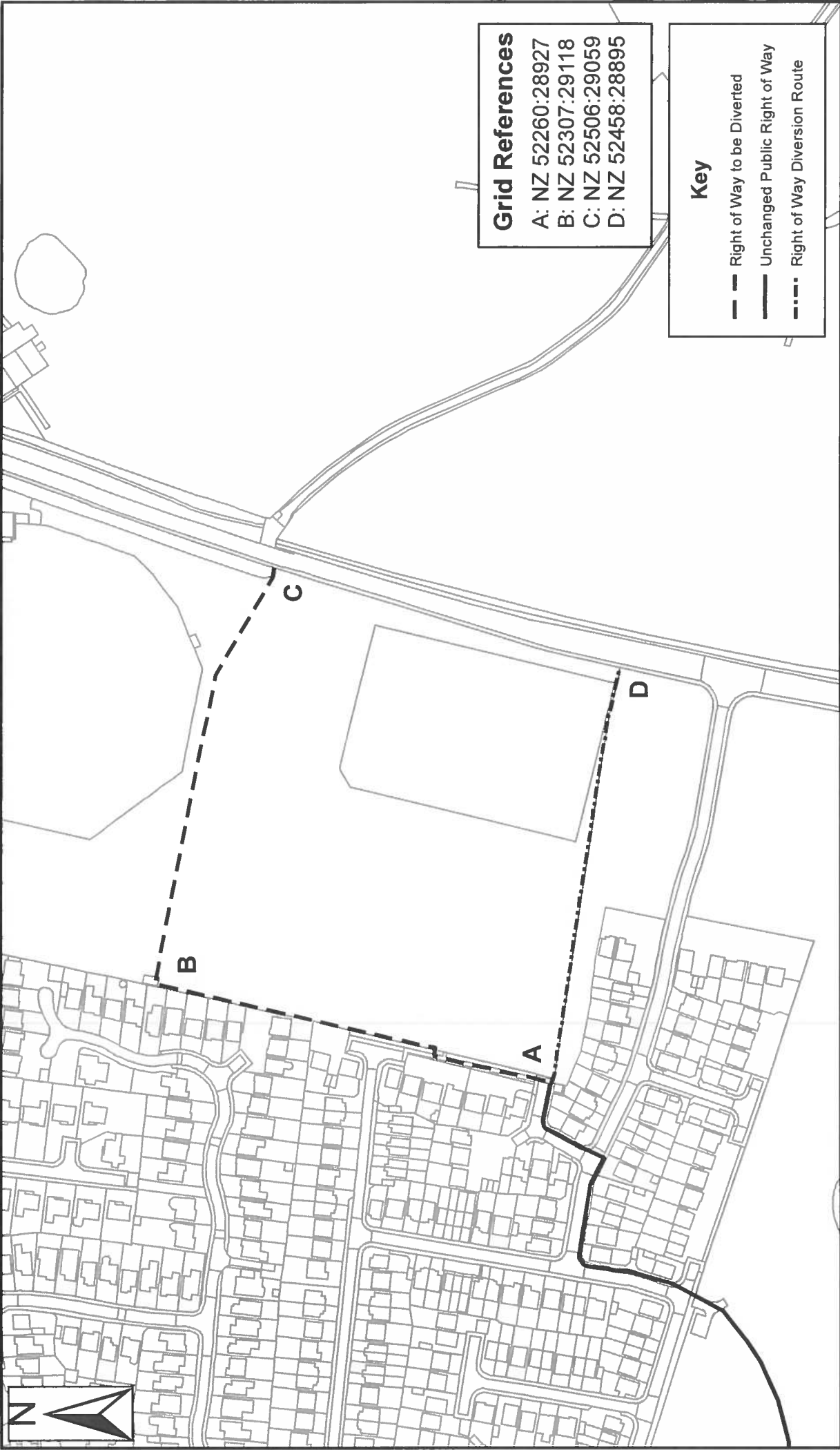
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# Highways Act 1980, s119 - proposed diversion of Public Footpath No.3, Seaton Parish



**Grid References**  
A: NZ 52260:28927  
B: NZ 52307:29118  
C: NZ 52506:29059  
D: NZ 52458:28895

**Key**

- - - Right of Way to be Diverted
- Unchanged Public Right of Way
- · · · · Right of Way Diversion Route

Hartlepool Borough Council  
Regeneration & Neighbourhoods Department  
Transportation & Infrastructure  
Level 4, Civic Centre  
Victoria Road  
Hartlepool, TS24 8AY Tel: 01429 523524

Sub Title: PPDO - Seaton 3  
Scale: 1:2,500  
Date: 15th April 2019  
Drawn By: Countryside Access Team

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## Appendix 2

Consultation for proposed diversion of Public Footpath No.3, Seaton Parish  
09/07/2019

### List of Consultees

Landowner – Hartlepool Borough Council

Ward Members:     Councillor Sue Little  
                          Councillor Leisa Smith

Utilities:         Environment Agency  
                      Hartlepool Water Authority  
                      National Grid  
                      Northern Gas Works  
                      Northern Power Grid  
                      Northumbrian Water Ltd  
                      Open Reach  
                      Virgin Media

Council:         Highways Apparatus  
                      Ecology  
                      Planning  
                      Property Services  
                      Tees Archaeology

Statutory Consultee:     Ramblers Association

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