



HARTLEPOOL BOROUGH COUNCIL

OFFICER DECISION RECORD

Department: Neighbourhoods and Regulatory Services

Division: Neighbourhood Services – Transportation & Infrastructure Section

Date of Decision: 24th November 2020

Officer Making Decision: Tony Hanson

Subject / Description & Reason for Decision: Public Path Diversion Order

Application to propose a diversion of Public Footpath No 3, Dalton Heights, Dalton Piercy Parish

Powers of the Council under the Town & Country Planning Act 1990, Wildlife & Countryside Act 1981 and the Highways Act 1980 have been delegated to the Director of Neighbourhoods and Regulatory Services.

A new housing development in Dalton Piercy allows for the diversion of the above-mentioned public right of way.

A Public Path Diversion Order is recommended to be made for the diversion of Public Footpath No.3, to a new route outside the curtilage of the development area, in accordance with section 257, Town & Country Planning Act 1990 and the implementation of the making of the order and its subsequent confirmation to be carried out in accordance with the said Act.

If no objections to the diversion order are received, or if any objections which are received are subsequently withdrawn, the Order to be placed with the Chief Solicitor for confirmation

If any objections to the diversion order are received, and not subsequently withdrawn, the Order be referred to the Secretary of State for confirmation.

Report and appendices provided for information and reference

Type of Decision: Non Key

Nature of Delegation Being Exercised: Officer Delegated Authority – DRN257 (Part 3 Page 125)

ODR No. :

Alternative Options Considered & Rejected: No other options available during COVID-19 Pandemic

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, DALTON HEIGHTS, DALTON PIERCY PARISH

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, Dalton Heights, Dalton Piercy Parish (as shown in the plan, placed at the end of this report), in accordance with section 257, Town & Country Planning Act 1990

3. BACKGROUND

3.1 On 28th May 2019 the Highways Authority, known as Hartlepool Borough Council (the Council), received an application to divert a section of Public Footpath No.3, Dalton Piercy Parish that runs along the south western boundary of the Wynyard Homes development at Dalton Heights, Dalton Piercy. The plan submitted, as part of the application, is shown in **Appendix 1**.

3.2 The application was made by Wynyard Homes to help facilitate a safer and more enjoyable route for walkers to use. At present the public walk along the field edge of the development site between College Close and the rest of the public footpath, unaffected by this development and application.

3.3 The application was made by the landowner, Wynyard Homes, on the grounds that the diversion was necessary to enable the development of a new housing estate. Planning Permission for this development was granted on 27th November 2017.

4. PROPOSALS

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

- The above described section of Public Footpath No.3, from a route through the development area, onto a route outside, parallel and to the west of the development site.

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

7. LEGAL CONSIDERATIONS

- 7.1 An order, under Section 257 of the Town and Country Planning Act 1990, may, if the competent authority are satisfied that it should do so, provide:
- for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
 - for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;
 - for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;
 - for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- 7.2 When looking at the Section 257 of the Town and Country Planning Act 1990, the following questions have been considered:
- 7.3 Landowner/Public Interest
The application was made by Wynyard Homes, acting on its own behalf. The diverted path is needed, to provide a more enjoyable and safe route for people to use. The diversion is required to also protect the privacy and amenity of the proposed dwellings associated with the Planning application H/2015/0353

7.4 Termination Points

The diversion does not alter the termination points of the path at the northern end of the route or at the southern end of the route but provides a more suitable and parallel route to the west of and outside the development area. It allows for the development to take place and the path to be placed on a route as enjoyable and as satisfactory to the user of the public right of way path network in this area of the borough.

7.5 Consideration of the order to divert.

When considering the order of diversion, the Council may consider that the order is satisfactory and works providing a positive addition to the rights of way network being in the interests of the public in general as well as local landowners. It will serve a wider section of the community adding to the safety and sustainability of the highway infrastructure.

7.6 Consideration of the Rights of Way Improvement Plan

When looking at the legal considerations for this 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 upon the conclusion of the order. The diverted route is already owned and managed by the existing landowner.

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 Wynyard Homes development at Dalton Heights, Dalton Piercy, 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 Footpath No.3, to a new route outside the curtilage of the development area, in accordance with section 257, Town & Country Planning Act 1990 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 Town & Country Planning Act 1990 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 257

- 15.2 The public footpath is designated as Public Footpaths No.3, Dalton Piercy Parish, and is located on the north western edge of Dalton Piercy village

16. BACKGROUND PAPERS

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

17. CONTACT OFFICERS

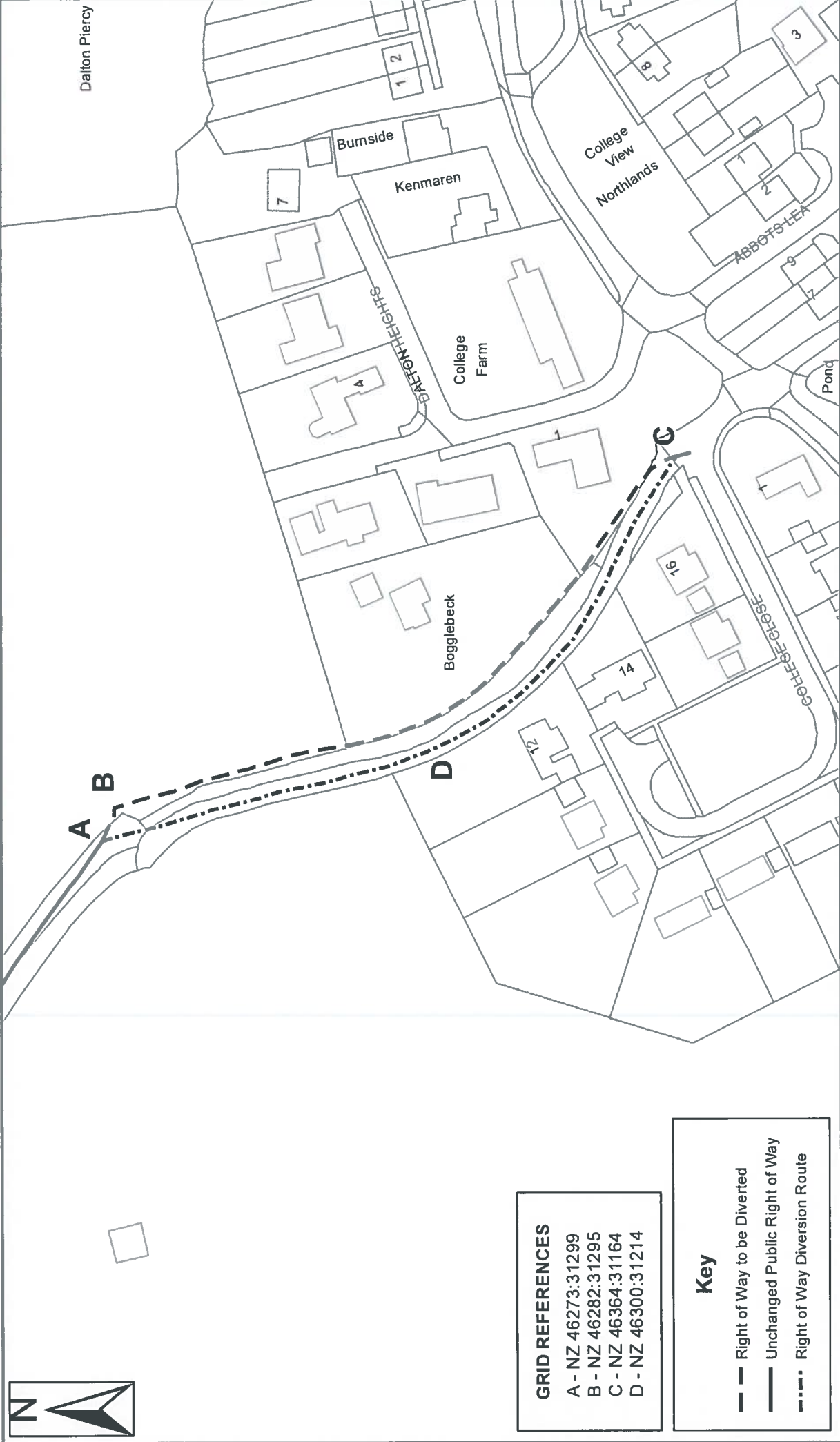
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Town & Country Planning Act 1990, section 257 - proposed diversion of Public Footpath No.3, Dalton Piercy Parish



GRID REFERENCES
 A - NZ 46273:31299
 B - NZ 46282:31295
 C - NZ 46364:31164
 D - NZ 46300:31214

Key

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



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Sub Title: PPDO - Dalton Piercy 3
 Scale: 1:1,250
 Date: 19th July 2019
 Drawn By: Countryside Access

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Appendix 2

Consultation for proposed diversion of Public Footpath No.3, Dalton Piercy Parish
23/07/2019

List of Consultees

Landowners: Wynyard Homes
Mr K Johnson

Parish Council: Dalton Piercy

Ward Members: Councillor Mike Young
Councillor Brenda Loynes
Councillor Cameron Stokell

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
