

PLANNING COMMITTEE AGENDA



Wednesday 26th November 2014

at 10.00 am

**in the Council Chamber,
Civic Centre, Hartlepool**

MEMBERS OF PLANNING COMMITTEE:

Councillors Ainslie, S Akers-Belcher, Barclay, Cook, Dawkins, James, Lilley, Martin-Wells, Morris, Payne and Springer.

1. **APOLOGIES FOR ABSENCE**

2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

3. **MINUTES**

- 3.1 To confirm the minutes of the meeting held on 5th November 2014 *(to follow)*
- 3.2 To confirm the minutes of the meeting held on 12th November 2014 *(to follow)*

4. **ITEMS REQUIRING DECISION**

- 4.1 Planning Applications – *Assistant Director (Regeneration)*
 - 1. H/2014/0457 13 Friar Terrace
- 4.2 Proposed Diversion of Public Footpath No 3, Hart Village, Hart Parish – *Assistant Director (Neighbourhoods)*
- 4.3 Proposed Diversions of Public Footpaths Nos 2 and 3, Land East of Elwick Village, Elwick Parish – *Assistant Director (Neighbourhoods)*
- 4.4 Proposed Extinguishment of Public Footpath No 4, Land to the East of Elwick Village, Elwick Parish – *Assistant Director (Neighbourhoods)*

5. ITEMS FOR INFORMATION / DISCUSSION

- 5.1 Appeal at Ashfield Caravan Park, Dalton Piercy, Hartlepool, TS27 3HY – *Assistant Director (Regeneration)*
- 5.2 Update on Current Complaints – *Assistant Director (Regeneration)* (to follow)

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

7. LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below in Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation) Order 2006

8. ITEMS REQUIRING DECISION

- 8.1 13 Friar Terrace – Enforcement Action (paras 5 and 6) *Assistant Director (Regeneration)*

FOR INFORMATION

The Next Scheduled Meeting will be held on Wednesday 17th December 2014 commencing at 10.00 am in the Civic Centre, Hartlepool.



No: 1
Number: H/2014/0457
Applicant: Mr R White 13 Friar Terrace Hartlepool
Agent: N/A
Date valid: 13/10/2014
Development: Installation of upvc windows at rear
Location: 13 Friar Terrace Hartlepool

PURPOSE OF REPORT

1.1 A valid application has been submitted for the development highlighted within this report accordingly Hartlepool Borough Council as Local Planning Authority is required to make a decision on this application. This report outlines the material considerations in relation to the proposal and presents a recommendation.

BACKGROUND

1.2 The application site constitutes a north facing, terraced dwelling house at Friar Terrace, Hartlepool.

PROPOSAL

1.3 The proposal is to replace nine white timber sash windows, at the rear of the property, with golden oak UPVC casement windows. Eight of the windows appear to be single glazed, two over two in design, however, one on the second floor appears to be a margin-light window. Work has already started on site with two windows being replaced although they have only been temporarily fitted.

1.4 The application has been referred to planning committee as it has been called in by a Councillor.

SITE CONTEXT

1.5 The host dwelling is a terraced property situated in a residential street. The property is within the Headland Conservation Area (a designated heritage asset) and is subject to an Article 4 Direction controlling permitted development rights to all elevations of the building.

PUBLICITY

1.6 The application has been advertised by 2 neighbour letters, a site notice and press notice. No objections have been received. The time period for representations expires before the meeting.

CONSULTATIONS

1.7 The following consultation replies have been received:

Landscape Planning and Conservation - The windows are contrary to the policy guidelines agreed by Planning Committee as they are not, 'of a type appropriate to the age and character of the building.' in both the colour and design of the windows. It is considered that the proposed windows would not preserve or enhance the character or appearance of the Headland Conservation Area.

PLANNING POLICY

1.8 In relation to the specific policies referred to in the section below please see the Policy Note at the end of the agenda.

Local Policy

1.9 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application.

GEP1: General Environmental Principles

HE1: Protection and Enhancement of Conservation Areas.

1.10 In 2009 Planning Committee approved guidelines relating to replacement windows in Conservation Areas, this guidance is discussed in the planning considerations section of the report.

National Policy

1.11 In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the National Planning Policy Framework (NPPF). The NPPF sets out the Governments Planning Policies for England and how these are expected to be applied. It sets out the Government requirements for the planning system. The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic heading – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve 'core principles' that should underpin both plan-making and decision taking, these being; empowering local people to shape their surrounding, proactively drive and support economic development, ensure a high standard of design, respect existing roles and character, support a low carbon future, conserve the natural environment, encourage re-use of previously developed land, promote mixed use developments, conserve heritage assets, manage future patterns of growth and take account of and support local strategies relating to health, social and cultural well-being.

1.12 The relevant paragraphs of the NPPF are listed below:

PARA 196: Primacy of the development plan

PARA 197: Presumption in favour of sustainable development

PARA 131: Sustaining and enhancing the significance of heritage assets

PARA 132: Weight given to assets conservation

PARA134: Harm to heritage assets

PLANNING CONSIDERATIONS

1.13 The main consideration in regard to this application is the appropriateness of the proposal in terms of the impact on the Headland Conservation Area.

1.14 At a local level Planning Committee approved guide lines relating to replacement windows in 2009. In this instance the relevant sections of this guidance are as follows,

1.15 Unlisted buildings in Conservation Areas, subject to an Article 4 Direction:

Any planning application for replacement or alteration of traditional windows on the building on front, side and rear elevations which is not of a type appropriate to the age and character of the building (in terms of design and detailing) and the character and appearance of the conservation area should be denied consent. The use of traditional materials will be encouraged, however the use of modern material will be accepted provided that the window is of design (i.e. pattern of glazing bars, horns etc), profile (including that of the frame, the opening element and the positioning within the aperture) and opening mechanism matching those of the original traditional window (i.e., hinged or sliding).

1.16 The main issue of consideration is the impact the proposal will have on the Headland Conservation Area. The Headland Conservation Area forms the original settlement of Hartlepool, established during the seventh century as a religious centre and later becoming important as a port. Its unique character derives from its peninsula location and from the Victorian domestic residential architecture.

1.17 The detail and standard of joinery evident on the Headland also contributes to its unique character. Windows are usually vertical sliding sash containing a single pane of glass, sometimes divided by a single vertical glazing bar. Horns are also evident on sash windows for decoration and strength. Some of the earlier types of multi-paned sash windows are found on lesser windows on rear elevations or to basements.

1.18 Colour plays a key element in the character of the Headland Conservation Area. Whilst rendered properties provide the backdrop of the streetscape, with muted coloured properties offset with the black painted render of some houses. The streetscene is further enlivened with painted timber including coloured bays and doors in deep blues, greens and reds, with finer joinery such as windows and door frames picked out in white.

1.19 The proposed windows are of a modern design. They are casement windows with top hung opening lights and a glazing bar dividing the window into two panes. The windows proposed differ significantly from a sash window for the following reasons,

- UPVC as a material has a smoother more regular surface finish and colour, and the ageing process differs significantly between UPVC and painted timber. The former retains its regularity of form, colour and reflectivity with little change over time however newly painted timber is likely to go through a wider range of change and appearance over the same period. A UPVC window will differ significantly in appearance both at the outset and critically as it ages from one constructed in wood.
- The width, bulk of the framing and opening mechanisms of the windows are unacceptable. The windows to the property are traditional double hung vertical sliding sash windows constructed in timber. The appearance of the window that has been installed is vastly different to a sliding sash. They are top hung and the detailing and shape of the frame is flatter and wider than that of a timber sash. In particular the lower sash of a timber window would be set back rather than flush as with the existing windows.
- A timber window has tenoned corner joints and the panes of glass are held by putty. The glazing beads and mitred corner joints found in UPVC windows are unlike the putty beads and tenoned corner joints of a timber window. It is these small but significant details that contribute to the special character of a timber sash window and thus to the appearance of a conservation area.

1.20 Confirmation of this difference in appearance is supported by a recent appeal decision in which the applicant wished to replace modern timber casement windows with UPVC casement windows to a property in Marine Crescent (APP/H0724/D/14/2218912). The Inspector stated,

[the] 'windows would be larger and the unit overall would not retain, as a clearly distinct element, the main vertical timberwork. This approach is reflected in a number of other windows locally. The wider frames of the uPVC have become substantially more dominant than the finer profile of wooden windows. The works proposed would depart further from the original character of this property. The level of detail does not persuade me that the uPVC frames would not dominant the glazed areas... These changes would detract from the character of this period property'.

1.21 The majority of the windows within the Headland Conservation Area are painted timber windows. As noted above this contributes to the character of the area and is reflective of a typical sash window. It is considered therefore that the colour of windows used in this instance should be white.

1.22 This has been supported in an appeal decision on a property in the Headland Conservation Area (APP/H0724/A/11/2156692), where the appellant appealed against a condition requiring replacement UPVC windows to be white. The Inspector noted,

'the characteristic treatment of sash windows in the area is for the windows themselves to be painted white and the sash boxes and frames to be picked out in a contrasting, often primary, colour. Whilst there are some exceptions... this is an invariable rule and, in my view, it makes an essential contribution to the character and appearance of the conservation area.'

1.23 The windows are contrary to the policy guidelines agreed by Planning Committee as they are not, 'of a type appropriate to the age and character of the building.' in both the colour and design of the windows. It is considered that the proposed windows would not preserve or enhance the character or appearance of the Headland Conservation Area.

Conclusion

1.24 The replacement windows would cause less than substantial harm to the designated heritage asset i.e. Headland Conservation Area. However there is no evidence to suggest that this harm is outweighed by the public benefits of the proposal.

1.25 This application is recommended for refusal as the proposal is contrary to paragraphs 131, 132 and 134 of the NPPF and policies GEP1 and HE1 of the Hartlepool Local Plan 2006.

EQUALITY AND DIVERSITY CONSIDERATIONS

1.26 There is no evidence of equality or diversity implications.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

1.27 There are no Section 17 implications.

REASON FOR DECISION

1.28 It is considered by Officers that the proposal in the context of relevant planning policies and material planning considerations is not acceptable as set out in the Officer's Report.

RECOMMENDATION - REFUSE

1. It is considered that the replacement windows are not appropriate due to their style, design and colour. It is considered the proposal would have a detrimental impact on the character and appearance of the Conservation Area. It has not been demonstrated that substantial public benefit would outweigh the harm caused to the designated heritage asset. The proposal is contrary to paragraphs 131, 132 and 134 of the NPPF and policies GEP1 and HE1 of the Hartlepool Local Plan 2006.

BACKGROUND PAPERS

1.29 Background papers used in the compilation of reports relating to planning items are available for inspection in Civic Centre, Victoria Road, Hartlepool during working hours. Copies of the applications are available on-line:

<http://eforms.hartlepool.gov.uk:7777/portal/servlets/ApplicationSearchServlet> except for such documents that contain exempt or confidential information and a paper copy of responses received through publicity are also available in the Members library.

CONTACT OFFICER

1.30 Damien Wilson
Assistant Director (Regeneration)
Level 3
Civic Centre
Hartlepool
TS24 8AY
Tel: (01429) 523400
E-mail: damien.wilson@hartlepool.gov.uk

AUTHOR

1.31 Fiona Reeve
Planning Officer
Level 1
Civic Centre
Hartlepool
TS24 8AY

Tel: (01429) 523273
E-mail: fiona.reeve@hartlepool.gov.uk

POLICY NOTE

The following details a precis of the policies referred to in the main agenda. For the full policies please refer to the relevant document.

ADOPTED HARTLEPOOL LOCAL PLAN 2006

GE1 (General Environmental Principles) - States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Hsg10 (Residential Extensions) - Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

HE1 (Protection and Enhancement of Conservation Areas) - States that development will only be approved where it can be demonstrated that the development will preserve or enhance the character or appearance of the Conservation Area and does not adversely affect amenity. Matters taken into account include the details of the development in relation to the character of the area, the retention of landscape and building features and the design of car parking provision. Full details should be submitted and regard had to adopted guidelines and village design statements as appropriate.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF) 2012

131: In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness

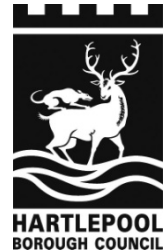
132: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated

heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

PLANNING COMMITTEE

26th November 2014



Report of: Assistant Director (Neighbourhoods)

Subject: PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 3, HART VILLAGE, HART PARISH

1. PURPOSE OF REPORT

- 1.1 This report seeks the approval for the diversion of Public Footpath No 3, Hart Village, Hart Parish (as shown in the plan, placed at the end of this report), in accordance with section 257 of the Town and Country Planning Act 1990 and to implement the making of the order and its subsequent confirmation.

2. BACKGROUND

- 2.1 On the 25th February 2014 the Highway Authority, known as Hartlepool Borough Council, received an application to divert a section of the Public Footpath No. 3 that runs to the south west of the Raby Arms, Hart Village. The plan submitted as part of the application is shown in **Appendix 1**.
- 2.2 The application was made by Gentoo Homes Limited on the grounds that the diversion was necessary to enable the housing development to the south of Raby Arms, Hart Village. Planning Permission was finally granted on appeal by the Planning Inspectorate, for these works, on 8th August 2014 (APP/H0724/A/14/2213850).

3. PROPOSALS

- 3.1 The proposed diversion, shown in the attached plan, is to re-route:
- A middle section of Public Footpath No. 3 onto the housing development footways and purpose-built path, linking in with the existing footpath at the south western corner of the development site

4. LEGAL CONSIDERATIONS

- 4.1 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.

4.2 When looking at the Section 257 of the Town and Country Planning Act 1990, the following questions have been considered:

4.3 Landowner/Public Interest

The application was made by Gentoo Homes Limited acting in their own interest and the interest of the landowner. The diverted section of the path is needed, to provide a more enjoyable and safe route for people to use to access the full footpath between Hart Village and Hart Lane.

4.4 Termination Points

The diversion does not alter the termination point of the path at either end of the route but allows for the realignment of the path through the housing development.

4.5 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.

4.6 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

5. FINANCIAL IMPLICATIONS

- 5.1 The cost of diversion to Gentoo Homes Limited 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 Gentoo Homes Ltd

- 5.2 Hartlepool Borough Council have considered and concluded that Gentoo Homes Limited will pay for the full cost.

6. EQUALITY CONSIDERATIONS

- 6.1 An Equality Impact Assessment has been completed (see **Appendix 3**) to ensure that any potential impact on equality is assessed and considered prior to decisions being made that impact on people, services and on those groups with protected characteristics. It is clear that the proposed changes in relation to the diversion of the Public Footpath No. 3 that runs to the south west of the Raby Arms, Hart Village have no potential for discrimination or adverse impact on any Protected Characteristic groups. All opportunities to promote Equality have been taken and no further analysis or action is required.

7. ACCESS/DDA

- 7.1 A full informal consultation has been carried out with the Hartlepool Access Group, other relevant parties and service users. Options to mitigate, avoid or reduce impact have been considered as part of the proposed changes to the public footpath, including ensuring that the footpath is a width of at least 2 metres to ensure that this meets the needs of mobility and visually impaired groups.
- 7.2 When carrying out the consultations for this application; the profile of the people and organisations consulted ranged from Hartlepool Access Group, Ramblers Association, Statutory Undertakers, Council Staff, Parish Councils and Council Ward representatives.
- 7.3 At all times the Council has looked to achieve the most relevant access standards for the landscape that the application relates to. Through consultation and discussion the Council has looked to provide a route that is available and accessible to as wide a range of user communities as is possible, including those with mobility and visually impaired concerns.

8. CONSIDERATION OF AGRICULTURE AND FORESTRY

- 8.1 It is believed that there are no agricultural or forestry issues or constraints in relation to the diversion of the Public Footpath No. 3 that runs to the south west of the Raby Arms, Hart Village.

9. CONSIDERATION OF BIODIVERSITY

- 9.1 It is believed that there are no biodiversity issues or constraints in relation to the diversion of the Public Footpath No. 3 that runs to the south west of the Raby Arms, Hart Village.

10. CONSULTATIONS

- 10.1 Full informal consultation was carried out with all relevant parties, including all 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**.
- 10.2 Both Hartlepool Access Group and the Ramblers Association have requested that alternative route be a width of at least 2 metres,

11. SECTION 17

- 11.1 Section 17 of the Crime and Disorder Act 1988 requires Local Authorities and Police Authorities to consider the community safety implications of all their activities.
- 11.2 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’.*
- 11.3 The Community Safety Implications, in respect of the diversion of the public footpath at Gentoo Housing development, Hart Village, have been taken into account and that all has been reasonably done to prevent crime and disorder.

12. RECOMMENDATIONS

- 12.1 That the Planning Committee:
- approves the diversion of Public Footpath No 3, Hart Village, Hart Parish, in accordance with section 257 of the Town and Country Planning Act 1990 and the implementation of the making of the order and its subsequent confirmation as shown in the plan, 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 be confirmed; 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

13. REASONS FOR RECOMMENDATIONS

- 13.1 Town and Country Planning Act 1990 section 257 requires a competent authority to consider the authorisation of a diversion order of a public footpath if they are satisfied that it is necessary to do so in order to enable development to be carried out
- 13.2 On the 8th August 2014 planning permission was finally granted to Gentoo Homes Limited, on appeal, by the Planning Inspectorate (APP/H0724/A/14/2213850).
- 13.3 The public footpath is designated as Public Footpath No.3, Hart Parish, and runs from the northern entrance to Hart Pastures, Hart Village, via an underpass under A179, to its other terminus point on Hart Lane, opposite Keepers Cottage).

14. APPENDICES

- 14.1 All appendices quoted within this report are now printed separately with a number of copies placed in the Member's Library, Civic Centre
- 14.2 The Appendices referred to are listed below:
- **Appendix 1** - Plan submitted with the application to divert the aforementioned public footpath.
 - **Appendix 2** - A list of all parties consulted as part of the process to consider the application to divert this path.

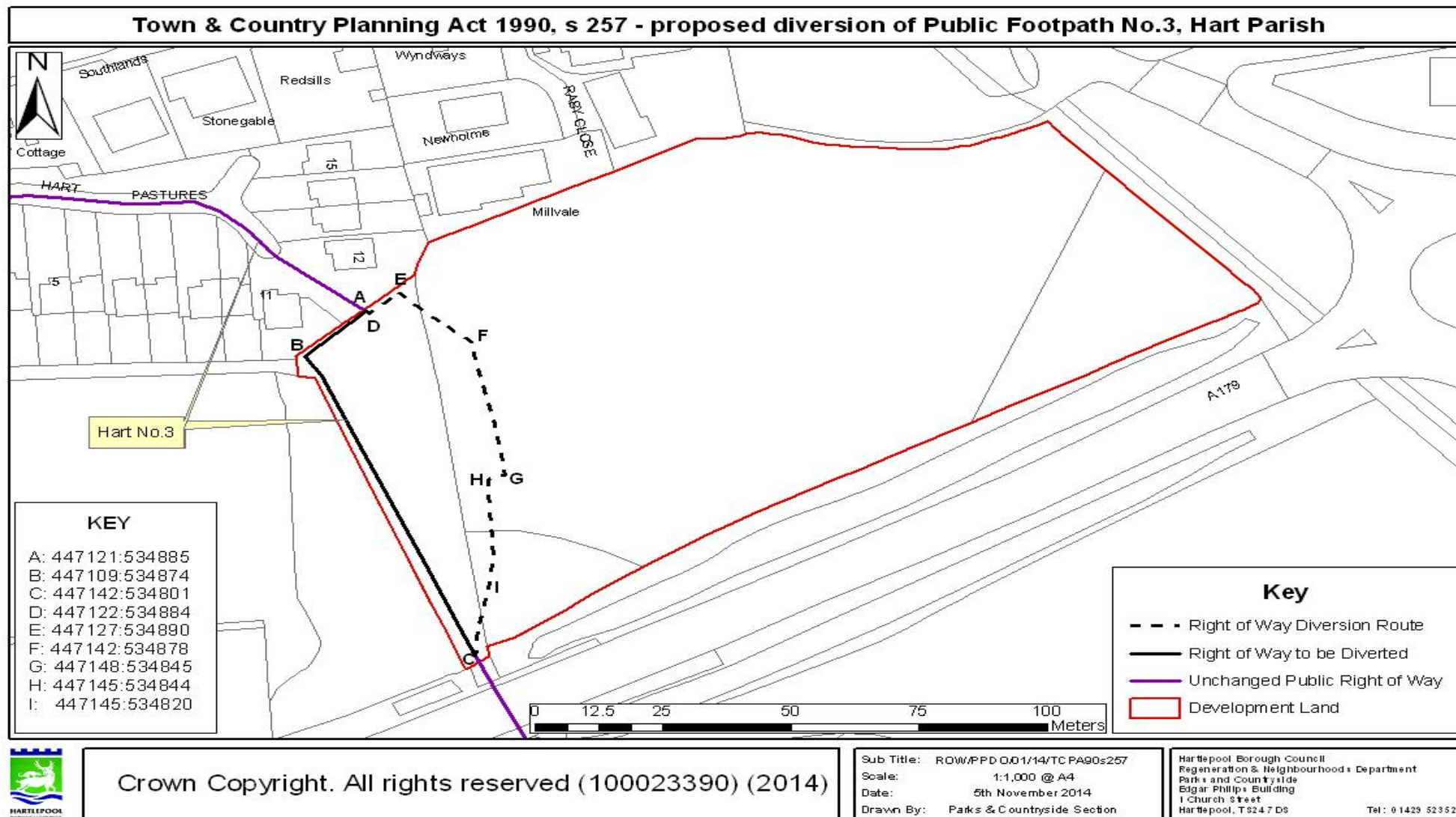
15. CONTACT OFFICER

Alastair Smith
Assistant Director (Neighbourhoods)
Level 3
Civic Centre
Hartlepool
TS24 8AY

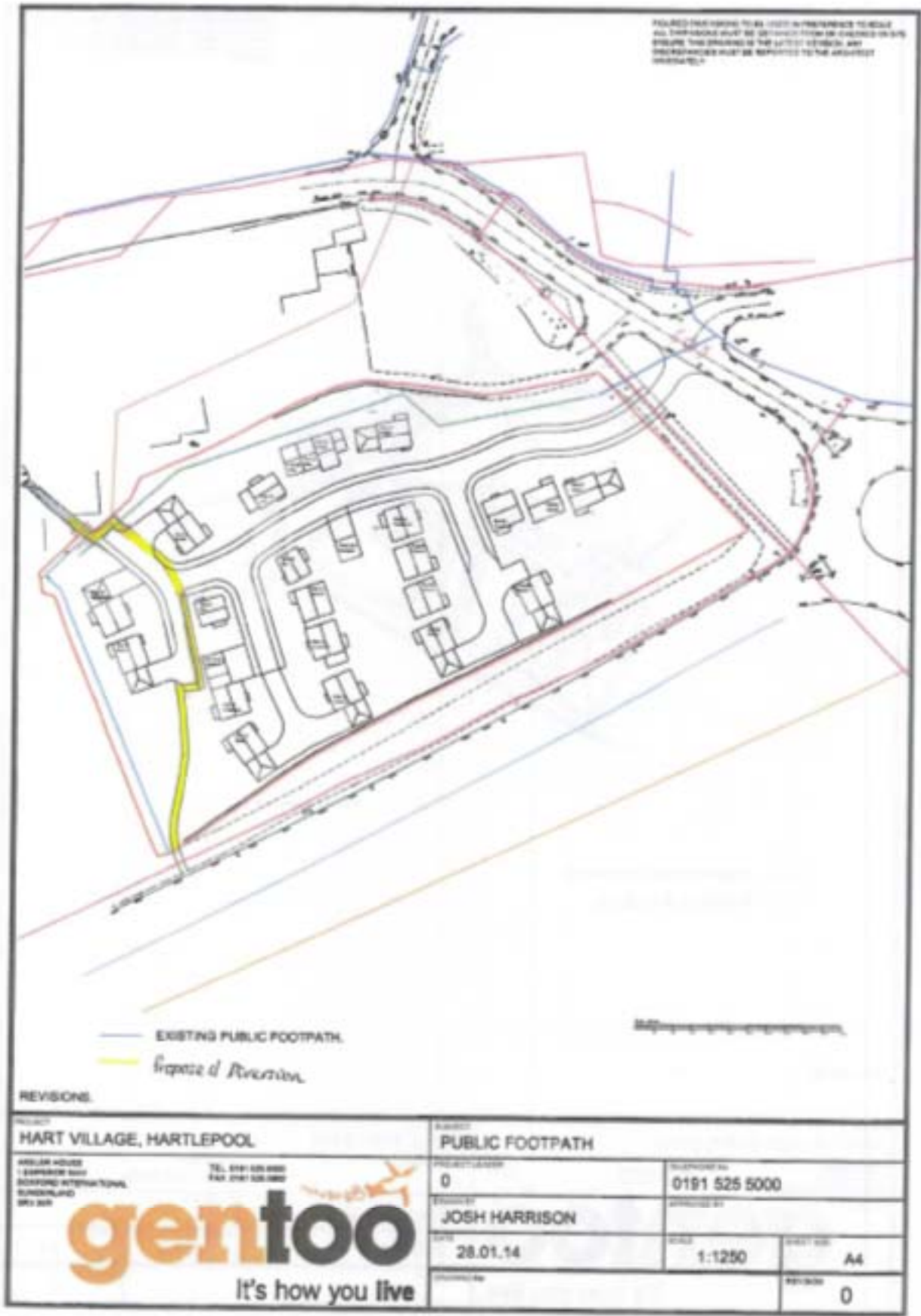
Tel: (01429) 523401
E-mail: alastair.smith@hartlepool.gov.uk

Chris Scaife
Countryside Access Officer
Parks and Countryside Section
Regeneration and Neighbourhoods Department
Hartlepool Borough Council

Tel: (01429) 523524
E-mail: chris.scaife@hartlepool.gov.uk



Appendix 1



APPENDIX 2

Public Footpath No.3, Gentoo Homes, Hart Parish

List of Consultees during consultation 2014

Ward Members: Councillor P Beck
 Councillor J Robinson
 Councillor D Riddle

Ramblers Association
Hartlepool Access Group

Hartlepool Borough Council Services:

Ecology
Tees Archaeology
Planning
Apparatus and Street Lighting
Property Services
Planning

Utilities:

Environment Agency
Hartlepool Water Authority
National Grid
Northern Gas Networks
Northern Power Grid: Middlesbrough and National Offices
Northumbrian Water Authority
Telecom Open Reach (BT)
 Virgin Media

APPENDIX 3

APPENDIX 3

Impact Assessment Form

Department	Division	Section	Owner/Officer
<i>Regeneration & Neighbourhoods</i>	<i>Neighbourhoods</i>	<i>Parks & Countryside</i>	<i>Chris Wenlock/Chris Scaife</i>
Function/ Service	<p>The aim of this impact assessment is to ensure that any potential impact on equality is assessed and considered prior to decisions being made that impact on people and services.</p> <p>This impact assessment considers equality as part of the proposed changes to public footpaths.</p> <ul style="list-style-type: none"> • PROPOSED DIVERSIONS OF PUBLIC FOOTPATHS NO'S 2 & 3, LAND EAST OF ELWICK VILLAGE, ELWICK PARISH • The diversions would be of greater benefit to the public and redirect them on routes away from intensive agricultural practices. • PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 3, HART VILLAGE, HART PARISH • Plans to re-route a middle section of Public Footpath No. 3 onto the housing development footways and purpose-built path, linking in with the existing footpath at the south western corner of the development site. • PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO 4, LAND TO THE EAST OF ELWICK VILLAGE, ELWICK PARISH • The extinguishment would be of greater benefit to the public and redirect them onto a newly created public footpath. It was also submitted as part of a larger application to connect to proposed concurrent diversions and creation agreement of public footpaths in the close vicinity to this public footpath (i.e. Elwick 2 and 3 and new Elwick 29). 		
Information Available	<p>Full informal consultation was carried out with all relevant parties and relevant user groups which included representatives from the Ramblers Association and the Hartlepool Access Group.</p> <p>Although no objections or concerns were raised as during the consultation both Hartlepool Access Group and the Ramblers Association have requested that alternative routes be a width of at least 2 metres.</p> <p>When taking into consideration the width of 2 metres, for new or altered paths, the Council bears in mind the user groups and</p>		

APPENDIX 3

	<p>their equipment needed to enjoy accessing the routes being altered or created. As a legal minimum Public Footpaths should be of a width of 1.8 metres and so a wider path can provide better accessibility to a wider range of users</p> <p>When carrying out the consultations for these applications; the profile of the people and organisations consulted ranged from Hartlepool Access Group, Ramblers Association, Statutory Undertakers, Council Staff, Parish Councils and Council Ward representatives.</p> <p>Consultees Ward Members: Councillor P Beck Councillor J Robinson Councillor D Riddle</p> <p>Ramblers Association Hartlepool Access Group</p> <p>Hartlepool Borough Council Services: Ecology Tees Archaeology Planning Apparatus and Street Lighting Property Services Planning</p> <p>Utilities: Environment Agency Hartlepool Water Authority National Grid Northern Gas Networks Northern Power Grid: Middlesbrough and National Offices Northumbrian Water Authority Telecom Open Reach (BT) Virgin Media</p>	
Relevance <i>Identify which strands are relevant to the area you are reviewing or changing</i>	Age	X
	<i>Relevant to elderly service users</i>	
	Disability	X
	<i>Relevant to Service users with mobility or visual impairments</i>	
	Gender Re-assignment	
	Race	
	Religion	

APPENDIX 3

	Gender		
	Sexual Orientation		
	Marriage & Civil Partnership		
	Pregnancy & Maternity		
Information Gaps	NONE		
What is the Impact	Equality Impacts on those groups with protected characteristics have been considered as part of the proposals to change public footpaths. Options to mitigate, avoid or reduce impact have been considered as part of the proposal, including ensuring that the footpath is a width of at least 2 metres.		
Addressing the impact	1. No Impact - No Major Change		
	<i>It is clear that there is no potential for discrimination or adverse impact on the above Protected Characteristics. All opportunities to promote Equality have been taken and no further analysis or action is required.</i>		
Action identified	Responsible Officer	By when	How will this be evaluated?
Date sent to Equality Rep for publishing			
Date Published			
Date Assessment Carried out			

PLANNING COMMITTEE

26th November 2014



Report of: Assistant Director (Neighbourhoods)

Subject: PROPOSED DIVERSIONS OF PUBLIC FOOTPATHS
NO'S 2 & 3, LAND EAST OF ELWICK VILLAGE,
ELWICK PARISH

1. PURPOSE OF REPORT

- 1.1 This report seeks the approval for the diversions of Public Footpaths No's 2 and 3, land east of Elwick Village, Elwick Parish (as shown in the plans, placed at the end of this report), in accordance with the Highways Act 1980, Section 119 and to implement the making of the order and its subsequent confirmation

2. BACKGROUND

- 2.1 On the 4th July 2014 the Highway Authority, known as Hartlepool Borough Council, received two applications to divert 1 section of the Public Footpath No. 2 and two sections of Public Footpath No. 3 located to the east of the Elwick Village on agricultural land, which forms part of Home Farm, Elwick. The plans submitted as part of the applications are shown in **Appendix 1**.
- 2.2 The applications were made by the owner of Home Farm on the grounds that the diversions would be of greater benefit to the public and redirect them on routes away from intensive agricultural practices.

3. PROPOSALS

- 3.1 The proposed diversions, shown in the plans located at the end of this report, look to re-route:
- A middle section of Public Footpath No. 2 to a more practical and enjoyable route just to the south and south east of its present position

- The majority of Public Footpath No.3, to a more practical and enjoyable route, from its present cross field location and the eastern section, which at present runs through the middle of a farm yard, from which it exits onto a busy country road. Walkers are then forced to walk along 250 metres of this road until they meet with the next public footpath (Elwick 5). The proposal is to allow the path to exit at a location opposite the point where this other public footpath exits onto this busy road. The health and safety of the public has been paramount in this consideration

4. LEGAL TESTS

4.1 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.

4.2 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

4.3 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:

4.4 Landowner/Public Interest

The application was made by the landowners in their own interest. One of the diverted paths is needed, to provide a more enjoyable route for people to use to access the immediate area, away from the danger of an un-bridged crossing of a beck. The two sections of the other diversion are required; to give the public enjoyable routes to use that allow less confusion and greater accessibility to a wider section of the community and the added value of linking to a newly created public footpath, thus allowing the public to link to a far greater number of public rights of way, in a more safe and comfortable way.

4.5 The Council's consideration of expediency

The Council may consider it expedient to divert the afore-mentioned paths on the grounds that the newly diverted paths will provide safe routes in and around farm buildings, reducing the need to walk across an un-bridged beck crossing and to link with a new public footpath thus providing the users with quieter, safer and more enjoyable experiences.

4.6 Termination Points

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

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

When considering the order of diversions, the Council may consider that the order works 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 wider section of the community adding to the safety and sustainability of the highway infrastructure.

4.9 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 routes are already owned and managed by the existing landowners of the farm.

5. **FINANCIAL IMPLICATIONS**

- 5.1 The cost of diversions to the landowner will be approximately £800.00 and this cost will pay towards the advertising of the order and confirmation, with a neighbouring landowner paying also towards some of the advertising cost, as part of the diversion of Elwick 3 will benefit their landownership. The final element of payment will be via a contribution from the Limestone Landscapes Heritage Lottery Funded landscape Partnership Project. Limestone Landscapes' contribution will mainly pay for the administration costs and further advertising costs associated with the making of the order.

- 5.2 Full indemnities for the costs of the diversions and extinguishment have been received from the applicant – Messrs Sturrocks, Home Farm, Elwick, the neighbouring landowner and Limestone Landscapes.
- 5.3 Hartlepool Borough Council has considered and concluded that the applicant, the neighbouring landowner and Limestone Landscapes will pay for the full cost, as quoted to them in 2013.

6. EQUALITY CONSIDERATIONS

- 6.1 An Equality Impact Assessment has been completed (See **Appendix 3**) to ensure that any potential impact on equality is assessed and considered prior to decisions being made that impact on people, services and on those groups with protected characteristics. It is clear that the proposed changes in relation to the diversions of the public footpaths located on agricultural land in the ownership of Home Farm, Elwick Village have no potential for discrimination or adverse impact on any Protected Characteristic groups. All opportunities to promote Equality have been taken and no further analysis or action is required.

7. ACCESS/DDA

- 7.1 A full informal consultation has been carried out with the Hartlepool Access Group, other relevant parties and service users. Options to mitigate, avoid or reduce impact have been considered as part of the proposed changes to the public footpaths, including ensuring that the footpaths are a width of at least 2 metres to ensure that they meet the needs of mobility and visually impaired groups.
- 7.2 When carrying out the consultations for this application; the profile of the people and organisations consulted ranged from Hartlepool Access Group, Ramblers Association, Statutory Undertakers, Council Staff, Parish Councils and Council Ward representatives.
- 7.3 At all times the Council has looked to achieve the most relevant access standards for the landscape that the application relates to. Through consultation and discussion the Council has looked to provide a route that is available and accessible to as wide a range of user communities as is possible, including those with mobility and visually impaired concerns.

8. CONSIDERATION OF AGRICULTURE AND FORESTRY

- 8.1 It is believed that there are no agricultural or forestry issues or constraints in relation to the diversion of the public footpaths located on agricultural land in the ownership of Home Farm, Elwick Village.

9. CONSIDERATION OF BIODIVERSITY

- 9.1 It is believed that there are no biodiversity issues or constraints in relation to the diversion of the public footpaths located on agricultural land in the ownership of Home Farm, Elwick Village.

10. CONSULTATIONS

- 10.1 Full informal consultation was carried out with all relevant parties, including all 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**.
- 10.2 Both Hartlepool Access Group and the Ramblers Association have requested that the diversion routes be of a width of at least 2 metres,

11. SECTION 17

- 11.1 Section 17 of the Crime and Disorder Act 1988 requires Local Authorities and Police Authorities to consider the community safety implications of all their activities.
- 11.2 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’.*
- 11.3 The Community Safety Implications, in respect of the diversions of the public footpaths located on agricultural land in the ownership of Home Farm, Elwick Village, have been taken into account and that all has been reasonably done to prevent crime and disorder.

12. RECOMMENDATIONS

- 12.1 That the Planning Committee:
- Approves the diversions of Public Footpaths No's 2 and 3, land east of Elwick Village, Elwick Parish, 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 orders are received, or if any objections which are received are subsequently withdrawn, the Orders be confirmed; and,
- If any objections to the diversion orders are received, and not subsequently withdrawn, the Orders be referred to the Secretary of State for confirmation

13. REASONS FOR RECOMMENDATIONS

- 13.1 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).
- 13.2 The public footpaths are designated as Public Footpaths No.2 and 3, Elwick Parish, and are located on agricultural land in the ownership of Home Farm, Elwick Village and situated to the east of the said village.

15. CONTACT OFFICER

Alastair Smith
Assistant Director (Neighbourhoods)
Level 3
Civic Centre
Hartlepool
TS24 8AY

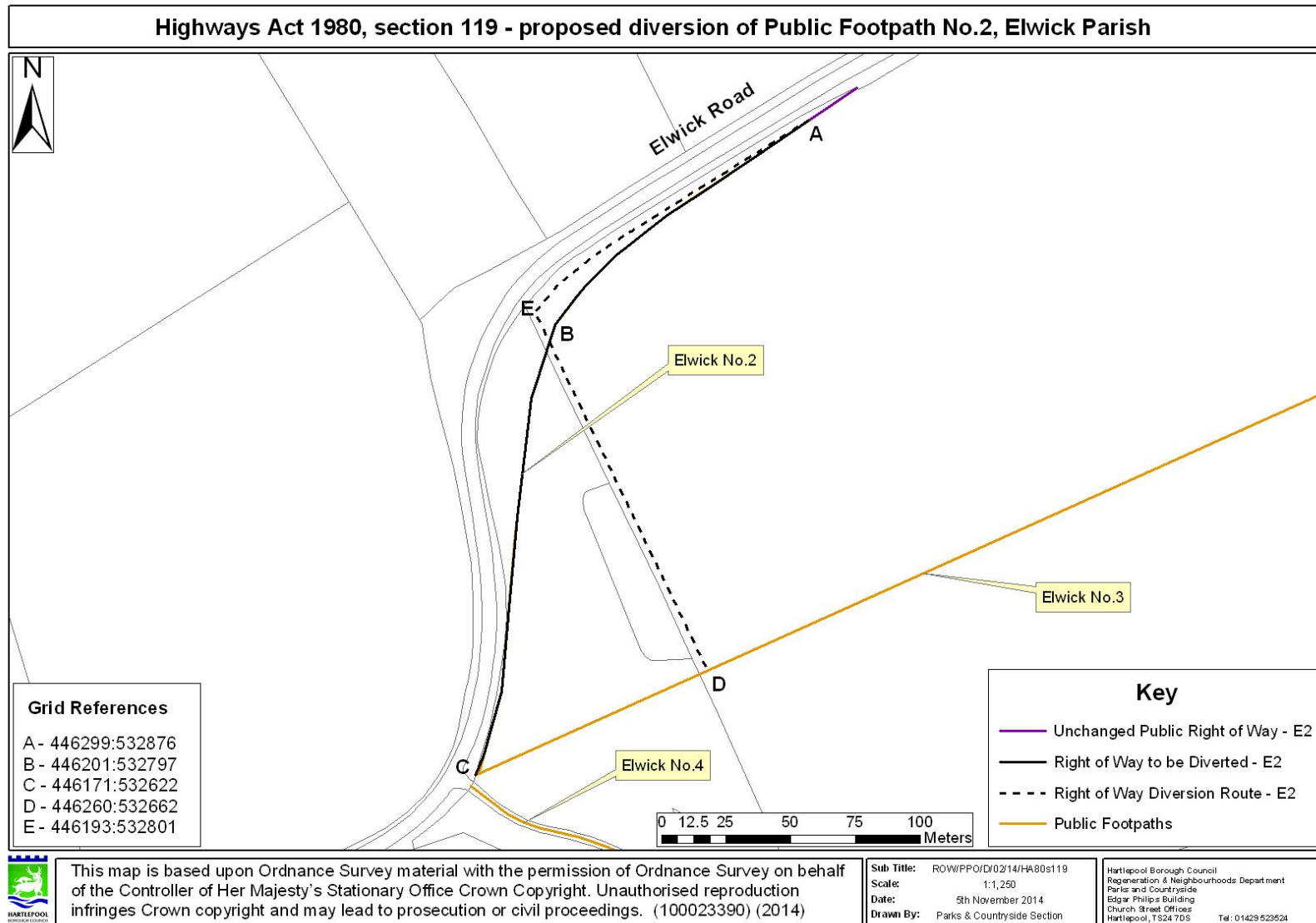
Tel: (01429) 523401

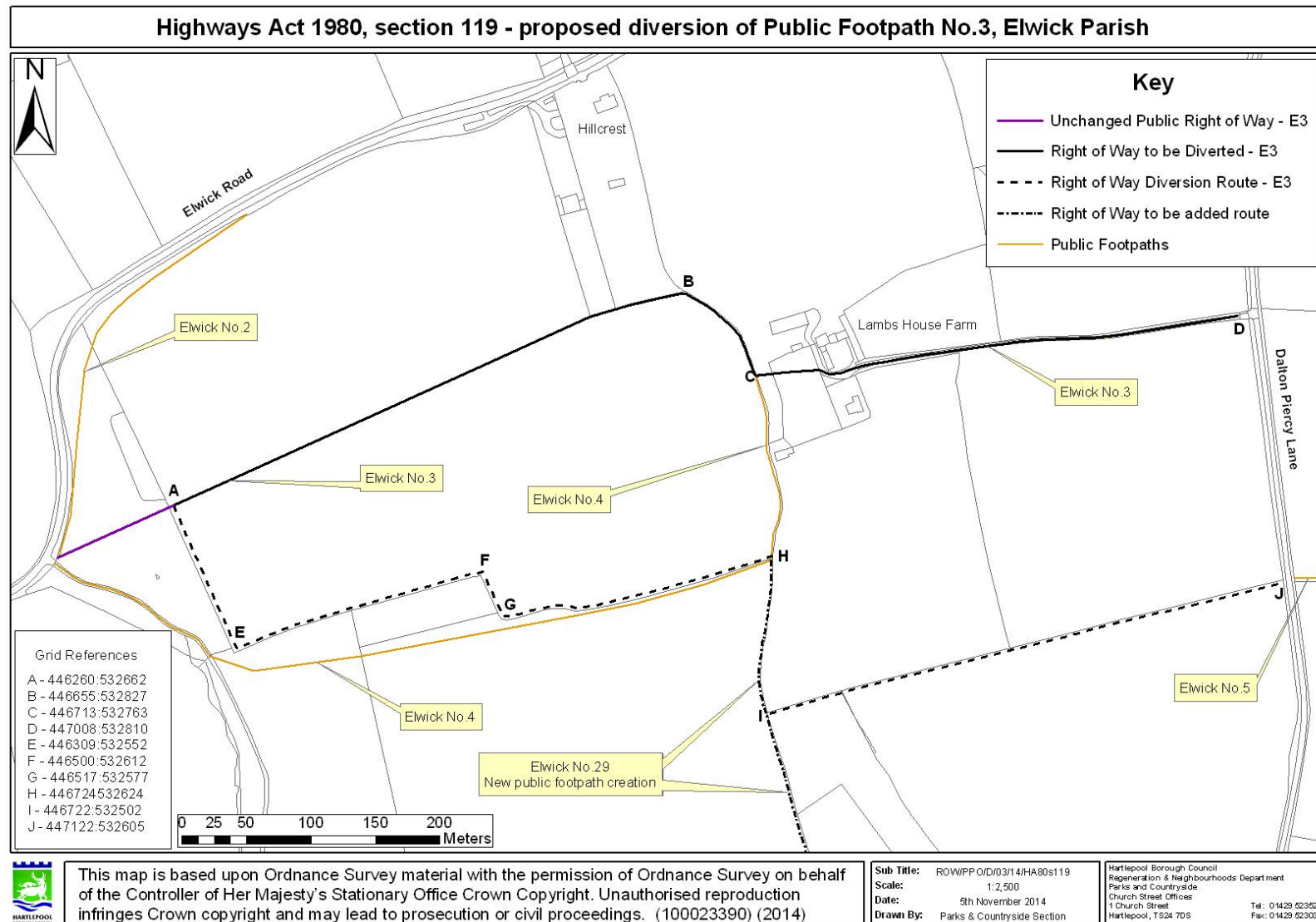
E-mail: alastair.smith@hartlepool.gov.uk

Chris Scaife
Countryside Access Officer
Parks and Countryside Section
Regeneration and Neighbourhoods Department
Hartlepool Borough Council

Tel: (01429) 523524

E-mail: chris.scaife@hartlepool.gov.uk





APPENDIX 1



APPENDIX 2

APPENDIX 2

**Public Footpath No.2 and 3, agricultural land to the east of
Elwick Village, within landownership of Home Farm, Elwick,
Elwick Parish**

List of Consultees during consultation 2014

Elwick Parish Council

Ward Members: Councillor B Loynes
Councillor G Morris
Councillor R Martin-Wells

Ramblers Association
Hartlepool Access Group

Hartlepool Borough Council Services:

Ecology
Tees Archaeology
Planning

Utilities:

Hartlepool Water Authority
National Grid
Northern Gas Networks
Northern Power Grid: Middlesbrough and National Offices
Northumbrian Water Authority
Telecom Open Reach (BT)
 Virgin Media

APPENDIX 3

APPENDIX 3**Impact Assessment Form**

Department	Division	Section	Owner/Officer
<i>Regeneration & Neighbourhoods</i>	<i>Neighbourhoods</i>	<i>Parks & Countryside</i>	<i>Chris Wenlock/Chris Scalfie</i>
Function/Service	<p>The aim of this impact assessment is to ensure that any potential impact on equality is assessed and considered prior to decisions being made that impact on people and services.</p> <p>This impact assessment considers equality as part of the proposed changes to public footpaths.</p> <ul style="list-style-type: none"> • PROPOSED DIVERSIONS OF PUBLIC FOOTPATHS NO'S 2 & 3, LAND EAST OF ELWICK VILLAGE, ELWICK PARISH • The diversions would be of greater benefit to the public and redirect them on routes away from intensive agricultural practices. • PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 3, HART VILLAGE, HART PARISH • Plans to re-route a middle section of Public Footpath No. 3 onto the housing development footways and purpose-built path, linking in with the existing footpath at the south western corner of the development site. • PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO 4, LAND TO THE EAST OF ELWICK VILLAGE, ELWICK PARISH • The extinguishment would be of greater benefit to the public and redirect them onto a newly created public footpath. It was also submitted as part of a larger application to connect to proposed concurrent diversions and creation agreement of public footpaths in the close vicinity to this public footpath (i.e. Elwick 2 and 3 and new Elwick 29). 		
Information Available	<p>Full informal consultation was carried out with all relevant parties and relevant user groups which included representatives from the Ramblers Association and the Hartlepool Access Group.</p> <p>Although no objections or concerns were raised as during the consultation both Hartlepool Access Group and the Ramblers Association have requested that alternative routes be a width of at least 2 metres.</p>		

APPENDIX 3

	<p>When taking into consideration the width of 2 metres, for new or altered paths, the Council bears in mind the user groups and their equipment needed to enjoy accessing the routes being altered or created. As a legal minimum Public Footpaths should be of a width of 1.8 metres and so a wider path can provide better accessibility to a wider range of users</p> <p>When carrying out the consultations for these applications; the profile of the people and organisations consulted ranged from Hartlepool Access Group, Ramblers Association, Statutory Undertakers, Council Staff, Parish Councils and Council Ward representatives.</p> <p>Consultees Ward Members: Councillor P Beck Councillor J Robinson Councillor D Riddle</p> <p>Ramblers Association Hartlepool Access Group</p> <p>Hartlepool Borough Council Services: Ecology Tees Archaeology Planning Apparatus and Street Lighting Property Services Planning</p> <p>Utilities: Environment Agency Hartlepool Water Authority National Grid Northern Gas Networks Northern Power Grid: Middlesbrough and National Offices Northumbrian Water Authority Telecom Open Reach (BT) Virgin Media</p>	
Relevance <i>Identify which strands are relevant to the area you are</i>	Age	X
	<i>Relevant to elderly service users</i>	
	Disability	X
	<i>Relevant to Service users with mobility or visual impairments</i>	
	Gender Re-assignment	

APPENDIX 3

<i>reviewing or changing</i>			
	Race		
	Religion		
	Gender		
	Sexual Orientation		
	Marriage & Civil Partnership		
Pregnancy & Maternity			
Information Gaps	NONE		
What is the Impact	Equality Impacts on those groups with protected characteristics have been considered as part of the proposals to change public footpaths. Options to mitigate, avoid or reduce impact have been considered as part of the proposal, including ensuring that the footpath is a width of at least 2 metres.		
Addressing the impact	1. No Impact - No Major Change		
	<i>It is clear that there is no potential for discrimination or adverse impact on the above Protected Characteristics. All opportunities to promote Equality have been taken and no further analysis or action is required.</i>		
Action identified	Responsible Officer	By When	How will this be evaluated?
Date sent to Equality Rep for publishing			
Date Published			
Date Assessment Carried out			

PLANNING COMMITTEE

26th November 2014



Report of: Assistant Director (Neighbourhoods)

Subject: PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO 4, LAND TO THE EAST OF ELWICK VILLAGE, ELWICK PARISH

1. PURPOSE OF REPORT

- 1.1 This report seeks the approval for the extinguishment of Public Footpath No 4, land to the east of Elwick Village, Elwick Parish (as shown in the plan, placed at the end of this report), in accordance with Section 118 of the Highways Act 1980 and to implement the making of the order and its subsequent confirmation.

2. BACKGROUND

- 2.1 On the 4th July 2014 the Highway Authority, known as Hartlepool Borough Council, received one application to extinguish the whole of the Public Footpath No. 4 located to the east of the Elwick Village on agricultural land, which forms part of Home Farm, Elwick. The plan submitted as part of the application is shown in **Appendix 1**.
- 2.2 The application was made by the owner of Home Farm on the grounds that the extinguishment would be of greater benefit to the public and redirect them onto a newly created public footpath. It was also submitted as part of a larger application to connect to proposed concurrent diversions and creation agreement of public footpaths in the close vicinity to this public footpath (i.e. Elwick 2 and 3 and new Elwick 29).

3. PROPOSALS

- 3.1 The proposed extinguishment, shown in the attached plan, is to fully extinguish:
- The full length of Public Footpath No.4, Elwick Parish

- 3.2 This would then enable and assist walkers onto the newly diverted public footpath No.3, Elwick Parish, a more suitable route along a field edge of an adjoining field. That diverted path would also benefit from joining up with the newly created public footpath and then leave it at a location to route eastwards to its new terminus opposite an existing public footpath (Elwick No.5)

3. **LEGAL TESTS**

- 4.1 Section 118 of the Highways Act 1980 allows the Authority to extinguish a footpath if it is satisfied that it is expedient to do so, on the grounds that the footpath is not needed for public use.
- 4.2. Before such an Order can be confirmed the Authority must also be satisfied that the extinguishment is expedient having regard to the extent to which it appears that the path would be likely to be used by the public and the effect which the extinguishment of the path would have on the land served by the path.
- 4.3 Section 118 (6A) looks to material provisions as stated in Hartlepool's Rights of Way improvement Plan. An Authority should have regard when determining whether or not to confirm such an order as an unopposed order on land over which the order would extinguish a public right of way.

Consideration of Legal Tests

- 4.4 When looking at the legal tests as provided within the Highways Act 1980, Sections 118, 118(5) and 118(6A) the following questions have been considered:
- 4.5 Why is it expedient to close that path (Section 118)?
The Council considers it expedient to close the path on the grounds that there will be a newly created public footpath that will provide better and more enjoyable linkage to the wider network of public access. Also the neighbouring public footpath (No.3, Elwick Parish) will be diverted to a new route that will run along a neighbouring field edge, so providing the public with similar if not better enjoyment.
- 4.6 Why is the path not needed (Section 118)?
The Council considers the path not to be needed due to the creation of a new public footpath, to the east and the related diversion of Public Footpath No.3, Elwick parish. The diversion and creation will provide a more enjoyable and satisfying access network for the use by the public.

4.7 How much use would the path be likely to be used if it were not extinguished (Section 118)?

If the path was not to be extinguished, the Council reasons that it would not be used by the public as the neighbouring Public Footpath No.3, Elwick Parish is a very popular route which is heavily used by walkers.

4.8 Consideration of the Rights of Way Improvement Plan (Sections 118(6A) and 26(3A) respectively)

When looking at the legal tests for extinguishment 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 order.

4.9 When taken in conjunction with the supporting diversion applications and the creation of a new public footpath; this application to extinguish Public Footpath No.4, Elwick Parish does not reduce the Definitive Map and Statement of Hartlepool borough but improves and enhances the overall local access network, allowing the public greater, more enjoyable and safer access and also providing greater linkages to the wider public access path system

5. FINANCIAL IMPLICATIONS

5.1 The cost of the extinguishment to the landowner will be approximately £800.00 and this cost will pay towards the advertising of the order and confirmation, with a neighbouring landowner paying also towards some of the advertising cost, as part of the overall changes to the local access network, as the applications to divert and extinguish paths benefit their landownership. The final element of payment will be via a contribution from the Limestone Landscapes Heritage Lottery Funded landscape Partnership Project. Limestone Landscapes' contribution will mainly pay for the administration costs and further advertising costs associated with the making of the order.

5.2 Full indemnities for the costs of the diversions and extinguishment have been received from the applicant – Messrs Sturrocks, Home Farm, Elwick, the neighbouring landowner and Limestone Landscapes.

5.3 Hartlepool Borough Council has considered and concluded that the applicant, the neighbouring landowner and Limestone Landscapes will pay for the full cost, as quoted to them in 2013.

6. EQUALITY CONSIDERATIONS

6.1 An Equality Impact Assessment has been completed (see **Appendix 3**) to ensure that any potential impact on equality is assessed and considered prior to decisions being made that impact on people, services and on those groups with protected characteristics. It is clear that the proposed changes in relation

to the extinguishment of the public footpath located on agricultural land in the ownership of Home Farm, Elwick Village has no potential for discrimination or adverse impact on any Protected Characteristic groups. All opportunities to promote Equality have been taken and no further analysis or action is required.

7. ACCESS/DDA

- 7.1 A full informal consultation has been carried out with the Hartlepool Access Group, other relevant parties and service users. Options to mitigate, avoid or reduce impact have been considered as part of the proposed change to the public footpath, including ensuring that the footpath is a width of at least 2 metres to ensure that this meets the needs of mobility and visually impaired groups.
- 7.2 When carrying out the consultations for this application; the profile of the people and organisations consulted ranged from Hartlepool Access Group, Ramblers Association, Statutory Undertakers, Council Staff, Parish Councils and Council Ward representatives.
- 7.3 At all times the Council has looked to achieve the most relevant access standards for the landscape that the application relates to. Through consultation and discussion the Council has looked to provide a route that is available and accessible to as wide a range of user communities as is possible, including those with mobility and visually impaired concerns.

8. CONSIDERATION OF AGRICULTURE AND FORESTRY

- 8.1 It is believed that there are no agricultural or forestry issues or constraints in relation to the extinguishment of the public footpath located on agricultural land in the ownership of Home Farm, Elwick Village.

9. CONSIDERATION OF BIODIVERSITY

- 9.1 It is believed that there are no biodiversity issues or constraints in relation to the extinguishment of the public footpath located on agricultural land in the ownership of Home Farm, Elwick Village.

10. CONSULTATIONS

- 10.1 Full informal consultation was carried out with all relevant parties, including all 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**.

11. SECTION 17

11.1 Section 17 of the Crime and Disorder Act 1988 requires Local Authorities and Police Authorities to consider the community safety implications of all their activities.

11.2 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’.*

11.3 The Community Safety Implications, in respect of the extinguishment of the public footpath located on agricultural land in the ownership of Home Farm, Elwick Village, have been taken into account and that all has been reasonably done to prevent crime and disorder.

12. RECOMMENDATIONS

12.1 That the Planning Committee:

- approves the extinguishment of Public Footpath No 4, land to the east of Elwick Village, Elwick Parish, in accordance with Section 118 of the Highways Act 1980 and the implementation of the making of the order and its subsequent confirmation as shown in the plan, placed at the end of this report;
- If no objections to the extinguishment order are received, or if any objections are received are subsequently withdrawn, the Order be confirmed; and,
- If any objections to the extinguishment order are received, and not subsequently withdrawn, the Order be referred to the Secretary of State for confirmation

13. REASONS FOR RECOMMENDATIONS

13.1 Highways Act 1980, section 118 requires a competent authority to consider the authorisation of an extinguishment 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 118 (1) and (2).

- 13.2 The public footpath is designated as Public Footpath No.4, Elwick Parish, and is located on agricultural land in the ownership of Home Farm, Elwick Village and situated to the east of the said village.

14. APPENDICES

- 14.1 All appendices quoted within this report are now printed separately with a number of copies placed in the Member's Library, Civic Centre

- 14.2 The Appendices referred to are listed below:

- **Appendix 1** - Plan submitted with the application to extinguish the aforementioned public footpath.
- **Appendix 2** - A list of all parties consulted as part of the process to consider the applications to extinguish this path.

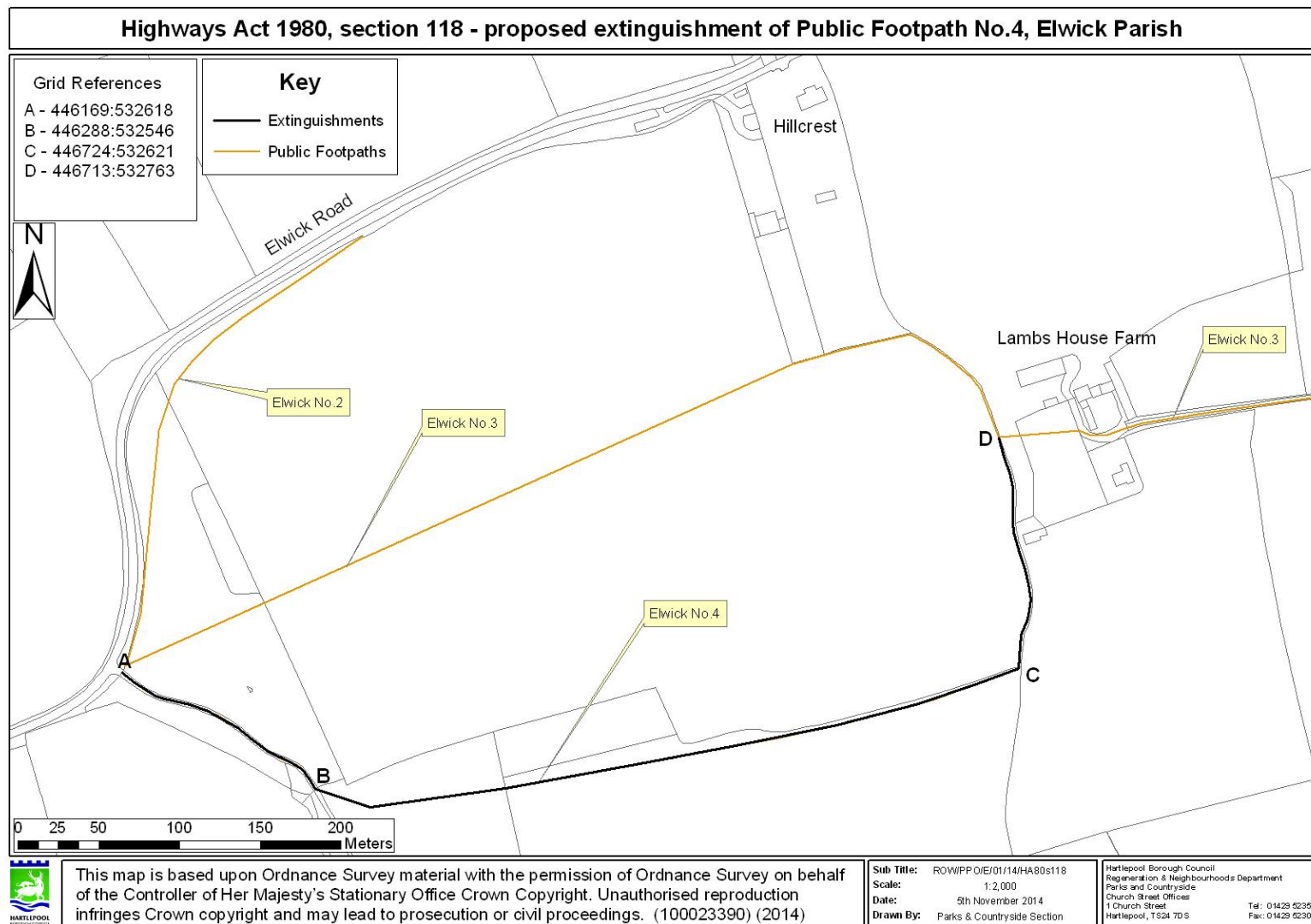
15. CONTACT OFFICER

Alastair Smith
Assistant Director (Neighbourhoods)
Level 3
Civic Centre
Hartlepool
TS24 8AY

Tel: (01429) 523401
E-mail: alastair.smith@hartlepool.gov.uk

Chris Scaife
Countryside Access Officer
Parks and Countryside Section
Regeneration and Neighbourhoods Department
Hartlepool Borough Council

Tel: (01429) 523524
E-mail: chris.scaife@hartlepool.gov.uk



APPENDIX 1



APPENDIX 2

APPENDIX 2

Public Footpath No.2 and 3, agricultural land to the east of Elwick Village, within landownership of Home Farm, Elwick, Elwick Parish

List of Consultees during consultation 2014

Elwick Parish Council

Ward Members: Councillor B Loy nes
Councillor G Morris
Councillor R Martin-Wells

Ramblers Association
Hartlepool Access Group

Hartlepool Borough Council Services:

Ecology
Tees Archaeology
Planning

Utilities:

Hartlepool Water Authority
National Grid
Northern Gas Networks
Northern Power Grid: Middlesbrough and National Offices
Northumbrian Water Authority
Telecom Open Reach (BT)
Virgin Media

APPENDIX 3

APPENDIX 3**Impact Assessment Form**

Department	Division	Section	Owner/Officer
<i>Regeneration & Neighbourhoods</i>	<i>Neighbourhoods</i>	<i>Parks & Countryside</i>	<i>Chris Wenlock/Chris Scaife</i>
Function/Service	<p>The aim of this impact assessment is to ensure that any potential impact on equality is assessed and considered prior to decisions being made that impact on people and services.</p> <p>This impact assessment considers equality as part of the proposed changes to public footpaths.</p> <ul style="list-style-type: none"> • PROPOSED DIVERSIONS OF PUBLIC FOOTPATHS NO'S 2 & 3, LAND EAST OF ELWICK VILLAGE, ELWICK PARISH • The diversions would be of greater benefit to the public and redirect them on routes away from intensive agricultural practices. • PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 3, HART VILLAGE, HART PARISH • Plans to re-route a middle section of Public Footpath No. 3 onto the housing development footways and purpose-built path, linking in with the existing footpath at the south western corner of the development site. • PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO 4, LAND TO THE EAST OF ELWICK VILLAGE, ELWICK PARISH • The extinguishment would be of greater benefit to the public and redirect them onto a newly created public footpath. It was also submitted as part of a larger application to connect to proposed concurrent diversions and creation agreement of public footpaths in the close vicinity to this public footpath (i.e. Elwick 2 and 3 and new Elwick 29). 		
Information Available	<p>Full informal consultation was carried out with all relevant parties and relevant user groups which included representatives from the Ramblers Association and the Hartlepool Access Group.</p> <p>Although no objections or concerns were raised as during the consultation both Hartlepool Access Group and the Ramblers Association have requested that alternative routes be a width of at least 2 metres.</p> <p>When taking into consideration the width of 2 metres, for new or altered paths, the Council bears in mind the user groups and their</p>		

APPENDIX 3

	<p>equipment needed to enjoy accessing the routes being altered or created. As a legal minimum Public Footpaths should be of a width of 1.8 metres and so a wider path can provide better accessibility to a wider range of users</p> <p>When carrying out the consultations for these applications; the profile of the people and organisations consulted ranged from Hartlepool Access Group, Ramblers Association, Statutory Undertakers, Council Staff, Parish Councils and Council Ward representatives.</p> <p>Consultees Ward Members: Councillor P Beck Councillor J Robinson Councillor D Riddle</p> <p>Ramblers Association Hartlepool Access Group</p> <p>Hartlepool Borough Council Services: Ecology Tees Archaeology Planning Apparatus and Street Lighting Property Services Planning</p> <p>Utilities: Environment Agency Hartlepool Water Authority National Grid Northern Gas Networks Northern Power Grid: Middlesbrough and National Offices Northumbrian Water Authority Telecom Open Reach (BT) Virgin Media</p>	
Relevance <i>Identify which strands are relevant to the area you are reviewing or</i>	Age	X
	<i>Relevant to elderly service users</i>	
	Disability	X
	<i>Relevant to Service users with mobility or visual impairments</i>	
	Gender Re-assignment	

APPENDIX 3

<i>changing</i>	Race		
	Religion		
	Gender		
	Sexual Orientation		
	Marriage & Civil Partnership		
Pregnancy & Maternity			
Information Gaps	NONE		
What is the Impact	Equality Impacts on those groups with protected characteristics have been considered as part of the proposals to change public footpaths. Options to mitigate, avoid or reduce impact have been considered as part of the proposal, including ensuring that the footpath is a width of at least 2 metres.		
Addressing the impact	1. No Impact - No Major Change		
	<i>It is clear that there is no potential for discrimination or adverse impact on the above Protected Characteristics. All opportunities to promote Equality have been taken and no further analysis or action is required.</i>		
Action identified	Responsible Officer	By When	How will this be evaluated?
Date sent to Equality Rep for publishing			
Date Published			
Date Assessment Carried out			

PLANNING COMMITTEE

26 November 2014



Report of: Assistant Director (Regeneration)

Subject: Appeal At Ashfield Caravan Park, Dalton Piercy,
Hartlepool, Cleveland TS27 3HY

HBC Application Ref: H/2014/0145

Appeal Ref: APP/H0724/A/14/2222416 – Erection of a
detached dwellinghouse (resubmitted application).

1. PURPOSE OF REPORT

- 1.1 To advise members of the outcome of the above appeal. The appeal was dismissed and the application for an award of costs by Mr Ashton against Hartlepool Borough Council was refused. The application for an award of costs by Hartlepool Borough Council against Mr Ashton was refused.

A copy of the appeal decision and costs decision letters are attached.

2. RECOMMENDATION

That members note the appeal and costs decisions.

3. CONTACT OFFICER

- 3.1 Damien Wilson
Assistant Director (Regeneration)
Level 3
Civic Centre
Hartlepool
TS24 8Ay
Tel: 01429 523400
E-Mail: damien.wilson@hartlepool.gov.uk

AUTHOR

3.2 Sinead Turnbull
Senior Planning Officer
Level 1
Civic Centre
Hartlepool
TS24 8AY
Tel: 01429 284319
E-mail: sinead.turnbull@hartlepool.gov.uk



Appeal Decision

Site visit made on 22 September 2014

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 October 2014

Appeal Ref: APP/H0724/A/14/2222416

Ashfield Caravan Park, Dalton Piercy, Hartlepool, Cleveland TS27 3HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Ashton against the decision of Hartlepool Borough Council.
- The application Ref H/2014/0145 was refused by notice dated 26 June 2014.
- The development proposed is a detached four bedroom dwelling to be restricted by an employment occupancy condition.

Applications for Costs

1. Applications for costs were made by Hartlepool Borough Council against Mr M Ashton and by Mr M Ashton against Hartlepool Borough Council. These are the subject of separate decisions.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect on the character and appearance of the area.

Reasons

4. The decision notice included a concern that related to sewage provision. This matter has been resolved.
5. The proposal would result in a new dwelling in the countryside to support the existing businesses. A smaller dwelling was permitted in September 2012. This proposal differs materially in both size and design from the dwelling previously approved. Whilst the extant permission is an important consideration, the differences are such that this proposal must be considered as a new development rather than an amendment to the extant permission.
6. The Council are concerned that there is no justification for a dwelling of this size and they have raised concerns with regard to the viability of the business in terms of it being able to support a larger dwelling. Accepting new residential development in the countryside without sufficient justification or controls would result in harm to the character and appearance of the countryside and the sustainability objectives of the *Framework*.

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7. A dwelling of greater size than that permitted would not necessarily significantly alter the impact on the wider landscape. However, I find the proposed design to be extremely uninspiring. The lack of design quality and architectural interest would be emphasised by its scale and the lack of relief within the elevations. Although I note the Council's view, I find that the proposal represents poor design which is unacceptable regardless of its limited wider prominence.
8. Although I have some reservations with regard to the appearance of the integral garage element of the approved design, I find that overall, the proportions and detailing of that dwelling would be much more satisfactory than those now proposed. I therefore find conflict with the design requirements of Policies Rur7(iii) and GEP1(i & ii) of the Hartlepool Local Plan 2006 (LP). These elements of the policies accord with the *National Planning Policy Framework* and I afford them considerable weight. The lack of architectural quality conflicts with the design aspirations of the *Framework*.
9. I find the information with regard to the essential need for a rural worker to live permanently at or near their place of work in the countryside, which relates mainly to security and out of hours management issues, to be far from convincing. However, given the extant permission and as the Council accept the functional need for a dwelling, I am satisfied that I need not re-consider the principle of a permanent dwelling at this time.
10. Both the extant and the currently proposed dwellings would be large four bedroom properties. The reasons for seeking a large house do not appear to have changed. I am not satisfied that further functional justification for the size of the dwelling is necessary in these circumstances.
11. An occupancy condition is accepted as being necessary. The *Framework* also requires that conditions be reasonable in all other respects. For a condition to be reasonable, it must satisfactorily relate to potential future residents of this dwelling and not just the very particular circumstances of the current site owners and their ability to fund and contribute to, the finances of the business.
12. The business must be sustainable. This means that the real cost of the investment necessary to operate the business, including its running costs, must be sustainable by the income it generates over time. The financial viability of the business is therefore central to the reasonableness of the condition and must therefore be examined in order to satisfy the *Framework*.
13. No costs or valuations relating to the dwelling have been provided but I have no reason to believe that building a significantly larger dwelling would not cost more than the approved dwelling and it would also be likely to have a greater value. As I accept that the functional requirement has not changed, if the finances were both generally comparable with those accepted by the Council and also able to sustain the greater value of the holding, I would accept the increased size of the dwelling in principle.
14. Although I note the appellant's concerns, no accounts were submitted as part of the planning application. It is clear that such information formed part of the evidence with regard to the initial permission. The only comparable information I have relates to paragraphs 6.53 and 6.54 of the appeal

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- statement. This suggests that pre-tax profits for years 2013 and 2014 were in the region of £90,000. Gross profits for 2011 were in the region of £55,000.
15. I have not been provided with the accounts that accompanied the previous application for comparison. The Financial Statements, submitted as part of the appeal, do not appear to reflect the figures quoted above with regard to the 2013 and 2014 profits. In these circumstances, I am not satisfied that I am able to compare the current business activity with that considered in 2012.
16. As the Financial Statements did not form part of the application, only the Council has been able to view them. They are unsigned and I am unclear if they have been finalised and lodged. No explanation has been provided as to the breakdown of the business activities relating to Ashfield Caravan Park Ltd and the separate statement relating to the affairs of the two joint owners. I assume that these relate solely to the relevant business activities. Although some wage expenses are shown, I am unclear what or who these relate to. No reference is made to the sheep rearing business and I am unclear if the clubhouse, which operates from the site, has been fully accounted for.
17. Whilst full accounts may not be necessary, it is essential that the finances of the businesses are fully explained and verified. Such information should be available for scrutiny by all parties. In any event, the lack of explanation regarding the accounts and the figures within them, do not provide sufficient assurance, with regard to the ability of the businesses to sustain the development proposed. The discrepancy between the appeal statement and the Financial Statements adds to my concerns.
18. There is no dispute that an on-site presence results in a better service for customers and is more convenient for the owners. I am mindful also that the *Framework* seeks to support rural enterprises and tourism businesses. These matters weigh in favour of the proposal but they do not differ from the benefits provided by the smaller permitted dwelling.
19. I have found the financial evidence to be inadequate and what has been provided fails to demonstrate that the business is in a position to sustain such a large property. In any event, I have found the detail of the dwelling to be unacceptable in terms of its overall design. The larger dwelling would have benefits because of the personal family circumstances of the owners but I do not find this to be sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR



Costs Decision

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 October 2014

Costs application in relation to appeal Ref: APP/H0724/A/14/2222416

Ashfield Caravan Park, Dalton Piercy, Hartlepool, Cleveland TS27 3HY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr M Ashton for a full award of costs against Hartlepool Borough Council.
- The appeal was made against the refusal of planning permission for a detached four bedroom dwelling to be restricted by an employment occupancy condition.

Decision

1. The application for an award of costs by Mr M Ashton against Hartlepool Borough Council is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant alleges that the Council failed to grant a further permission for a scheme that is the subject of an extant permission. The proposal is materially larger than that permitted and of a different design. The Council were therefore entitled to assess the proposal on its own merits.
4. It is suggested that the Council applied the principles of the out of date Policy Rur12 of the Hartlepool Local Plan 2006 and Planning Policy Statement 7. This relates to the need for a financial assessment. It is not evident that the Council relied upon these policies and I have found the need to consider the financial viability of the proposal to be necessary in order that the reasonableness of the occupancy condition be judged in line with the tests set out in the *National Planning Policy Framework*.
5. With regard to the finances of the business, the appellant provided an email from his accountant which describes positive progression in previous years and concludes that on the basis of information provided and on past business trends, the business will continue with this in the foreseeable future. I agree with the Council that this level of detail is unsatisfactory for the assessment required.
6. Whilst I note that the appellant was prepared to submit accounts on a confidential basis, the Council was not prepared to prevent them being viewed by third parties with an interest in the application. Given the lack of any other

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financial detail, I do not find this an unreasonable approach, particularly as the approved application was based upon such accounts.

7. The third reason for refusal relates to drainage. The Environment Agency lodged an objection to the appeal proposal due to a lack of information. In response, the appellant submitted information to the Council during the application process but I understand that it did not include a covering letter or include the planning reference. It was not therefore received by the planning officer or forwarded to the Environment Agency.
8. The Environment Agency did not raise an objection to the approved application but required the imposition of a condition. The extant permission therefore includes such a condition. I am unclear what information that application included with the submission. On the basis of all the information submitted by the applicant and the post decision correspondence from the Environment Agency, it is clear that the matter could be addressed by condition.
9. It is unclear if the Environment Agency considered their previous recommendation but given the lack of information provided with the application, they could not reasonably assume that all matters remained unchanged. The appellant did not include information within the application and subsequently failed to adequately direct the necessary documentation, although I note the dialogue referred to. The Council could perhaps have been more proactive in seeking a resolution to this issue, given the extant permission.
10. I am not satisfied that the Council were in a position to address the concerns by a condition on the basis of the information they had and the correspondence from the Agency. Given the catalogue of events, I am not satisfied that the Council acted unreasonably.
11. I find that unreasonable behaviour by Hartlepool Borough Council resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

Peter Eggleton

INSPECTOR



Costs Decision

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 October 2014

Costs application in relation to appeal Ref: APP/H0724/A/14/2222416

Ashfield Caravan Park, Dalton Piercy, Hartlepool, Cleveland TS27 3HY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Hartlepool Borough Council for a full award of costs against Mr M Ashton.
- The appeal was made against the refusal of planning permission for a detached four bedroom dwelling to be restricted by an employment occupancy condition.

Decision

1. The application for an award of costs by Hartlepool Borough Council against Mr M Ashton is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Council considers that the appellant acted unreasonably in refusing to submit requested information. It appears that the appellant has always been of the view that the proposal does not differ materially from the permitted dwelling. If the proposal represented an amendment to the original detail that was not material, I would agree that given the extant permission, only limited evidence would be required to demonstrate that the business continued to operate in a similar fashion.
4. It is a matter of judgement as to whether the proposal represents a material alteration from the permitted scheme. The appellant clearly has a different view to the Council and was entitled to have that view tested at appeal. The appellant's view that the changes were not materially different and so did not warrant a re-consideration of the details of the proposal must however, have had a reasonable prospect of being accepted.
5. There are many ways of judging the scale of the changes proposed. On the basis of the evidence submitted, I consider that the increased scale of the dwelling represents a materially different proposal. However, given the limited differences in the size of the overall floor plans, I am prepared to accept, that it would not be entirely unreasonable for an alternative view to be held. In these circumstances, it is not unreasonable that the appellant sought to rely on the very limited information first submitted.

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6. I find that unreasonable behaviour by the appellant, resulting in unnecessary or wasted expense by the planning authority, as described in Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

Peter Eggleton

INSPECTOR



PLANNING COMMITTEE

26 November 2014

Report of: Assistant Director (Regeneration)

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

1.1.1 Your attention is drawn to the following current ongoing issues, which are being investigated. Developments will be reported to a future meeting if necessary:

1. An investigation has commenced in response to a complaint regarding the running of cat breeding/boarding business from a residential property on Kesteven Road.
2. An investigation has commenced in response to a complaint regarding the running of a dog walking business from a residential property on West View Road.
3. An investigation has commenced in response to a complaint regarding the running of a dog boarding business from a residential property on Davison Drive.
4. An investigation has commenced stemming from the Council's Building Control Surveyor noting building works carried out to erect a rear extension to a property on Viola Close. The permitted development rights allowing householders to undertake alterations and minor extensions have been removed by means of a condition on the estate planning permission. A retrospective planning application will be submitted.
5. An investigation has been completed in respect of a complaint received regarding parapet walls on the flat roof of a rear extension built higher than detailed on the approved plan to a property on Burns Close. Following helpful assistance from the property owner the walls have been lowered. No action necessary.
6. An investigation has been completed in respect of a complaint received regarding the erection of a minor rear extension to property on Glentower Grove. Permitted development rights applied in this case. No action necessary.

7. An investigation has commenced in response to a complaint regarding delivering vehicular access arrangements and outdoor lighting at a recently converted public house (to retail use) on Mowbray Road.
8. An investigation has been completed in respect of a complaint received regarding damage to a rendered gable of a property on Percy Street. The rendering works were carried out by the Council sometime ago when the land adjacent was a school car park and rainwater runoff was an issue to the adjacent property. The matter has been forward to the Council's Estates department for attention.
9. An investigation has commenced in response to officer monitoring noting a 'Slimming World' banner erected along the top of a side boundary fence of a residential property on Ark Royal Close.
10. An investigation has commenced in response to a complaint regarding deep muddy ruts caused by lorries driving over grassed the highway verge adjacent to the pond in Dalton Piercy. The lorries are making deliveries to ongoing building works at a property whose vehicular access is off Dalton Piercy Road. The matter has been forward to the Council's Highway Team for action, as necessary.

2. RECOMMENDATION

- 2.1. Members note this report

3. CONTACT OFFICER

- 3.1 Damien Wilson
Assistant Director (Regeneration)
Level 3
Civic Centre
Hartlepool
TS24 8AY
Tel (01429) 523400
E-mail Damien.wilson@hartlepool.gov.uk

AUTHOR

- 3.2 Paul Burgon
Enforcement Officer
Level 1
Civic Centre
Hartlepool
TS24 8AY
Tel (01429) 523277
E-mail paul.burgon@hartlepool.gov.uk