



Committee Report

Planning Committee (North) – 12 March 2024

Proposed Creation of a Public Footpath (Halesworth No 27 & Holton No 14)

Highways Act 1980 Section 26

Applicant	Philip Ridley, Head of Planning and Coastal Management, East Suffolk Council
Case Officer	Nicola Biddall, Public Path Orders Officer 01394 444508 Nicola.Biddall@eastsuffolk.gov.uk

1. Summary/Purpose of the Report

- 1.1. To seek authority to make an order to create a public footpath (Halesworth No 27 and Holton No 14) under the provisions of Section 26 of the Highways Act 1980 as shown on the plan at Appendix 10. 1.

2. Background

- 2.1. East Suffolk Council is proposing to create a public footpath linking Stead Drive , Halesworth to Holton public footpath no 6 to allow pedestrians safe, off road access from the Hill Street Farm/Blyth Vale area of Halesworth to Orchard Valley where Holton Saint Peter Primary School and new Nursery and the Village Hall are situated .
- 2.2. Following the granting of planning permission, DC/16/5410/OUT (with all matters other than means of access reserved) a residential development of up to 160 dwellings with the provision of a new meadow, additional site wide open space and landscaping, land to enable an extension to the existing cemetery and vehicular accesses off Hill Farm Road is in the process of being provided. This footpath will provide a direct link from the existing public highway boundary on Stead Drive, through the Public Open Space to the east of the almost completed Blyth Vale development to connect with Holton Footpath no 6 which connects to Holton Road and Orchard Valley.
- 2.3. It had not been recognised at the outline planning application stage that the developer did not own all the land that would need to be crossed by a new footpath. There is a strip of unregistered land and another section owned by a different landowner between the development and Holton footpath no 6.
- 2.4. The proposal has been brought to the committee for a decision on whether a public path creation order should be made because objections have been received to the informal consultation.

3. Legislation

- 3.1. Before making an order under Section 26 of the Highways Act 1980 ("the Act") where (1) it appears to the local authority that there is a need for a footpath over land in their area and they are satisfied that, having regard to:

(a) the extent to which the path would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and

(b) the effect which the creation of the path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28;

it is expedient that the path or way should be created, the authority may by order made by them and submitted to the Secretary of State, or confirmed by them as an unopposed order, create a footpath over the land.

3a) The considerations to which—

(a) the Secretary of State is to have regard in determining whether or not to confirm or make a public path creation order, and

(b) a local authority are to have regard in determining whether or not to confirm such an order as an unopposed order,

include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the proposed footpath would be created.

- 3.2. Section 29 of the Act requires that in exercising its function under Section 26 of the Act an authority must have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features. The term 'agriculture' includes the breeding or keeping of horses.
- 3.3. It is appropriate for an authority to consider whether the tests for confirmation can be met when deciding whether to make an order.
- 3.4. An order must satisfy all the legal tests if it is to be confirmed. It is not sufficient for an order to satisfy some of the tests but not others.
- 3.5. The intention of the legislation is to balance the private interests of the owners of the land with the public interest.

4. Consultees

Consultee	Date consulted	Date reply received
Holton Parish Council	16/11/23	05/12/23
We support the above proposal		

Consultee	Date consulted	Date reply received
Halesworth Town Council	16/11/23	08/12/23
The committee agreed to the creation of a link between the public footpath from Stead Drive to connect with footpath 6 in Holton on the proviso that the proposed gate was big enough to allow a double buggy through as it is likely to be used by families going to and from the school in Holton.		

Consultee	Date consulted	Date reply received
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District Councillor Beth Keys- Holloway	16/11/23	04/12/23
It is incredibly important to provide residents with a safe footpath that leads them away from the busy roads and creates a safe route. I think this is a great idea.		

Consultee	Date consulted	Date reply received
District Councillor Geoff Wakeling, British Horse Society, Byways and Bridleways Trust, Cycling UK, Open Spaces Society, Ramblers Association (local representatives), Developer	16/11/23	No reply received

Consultee	Date consulted	Date reply received
Objector 1	16/11/23	14/12/23

We the owners of XXXXXXXXXX would like to inform you that firstly the terminology 'TRACK' is not the case, it is in fact our tarmac roadway serving our property and XXXX House, and our business of touring caravan park. This entails considerable vehicle movement. Several of our visitors have had near misses with children and adults, mostly dog walkers. The creation of this path on and over our roadway is fraught with danger with vehicle movement on a blind bend. The paragraph regarding Holton Primary school is not the catchment area for Hill Farm Road. Since Hopkins Homes illegally tore down our fence and hedge exposing access to our property, and installing said pathway on their land all attempts to restricted access have been futile due to the imbecilic pedestrians coming through after tearing down temporary fencing, many times depositing it onto the drive. The illegal act by Hopkins Homes was the first that we knew that a path had been designated to upset the enjoyment of our property and business, which was blamed on a planning officer not doing his job properly at the inception of Hopkins Homes gaining planning approval for this estate. The subsequent meeting with Mr Ben Woolnough and Mrs Nikky Biddall being that of apologies bordering on indifference with no mention of compensation, has led us to object to this proposal

Consultee	Date consulted	Date reply received
Objector 2	16/11/23	14/12/23

I object to the above proposal on multiple grounds. I object on safety grounds, the position of the connection at the Holton end of the proposed footpath is in a dangerous place, hidden by plants on the property adjacent to the southern end of the driveway. It is also on a corner that serves to further reduce visibility. It crosses a driveway that is used by large vehicles (caravans, motor homes, farm machinery, some of which cannot stop in a short distance). I object on principal, on how the situation has been handled by various council representatives. I object on the grounds that the impression of having no practical option to prevent the crossing was given, the insinuation that to object would only mean going to higher officials and having the crossing implemented regardless. I object on the grounds of the footpath being built right up to the Holton Orchards property line prior to any degree of approval or consultation being sought. This has served no other purpose but to actively insight vandalism and invite trespass to Holton Orchards property

(i.e.: repeated damaged to pre-existing barbed wire fencing, shrubbery, grass verge, despite frequent repairs). It has created animosity from public towards the rightful landowner for protecting his legal rights. The temporary fencing has been an eyesore and can only have negatively affected the owners' business. All the above being at no fault of the property owner. I object on the grounds that it is not necessary connection, that existing footpath connections are adequate

Consultee	Date consulted	Date reply received
Objector3	17/11/23	24/11/23
I object to the above proposal for the following reasons: possible youths using pathway to create havoc, knife crimes, etc, though Hopkins Estate on Stead Drive, Carey Drive.		

Consultee	Date consulted	Date reply received
Objector 4	24/11/23	28/11/23
I object to the above proposal for the following reasons: 'Proposed' footpath to link Hill Farm Road to Holton footpath, can you explain to me what proposed means as the said footpath is already complete. Not being informed of the said footpath initially, since then the footpath has caused several problems i.e. unrestrained dogs in our garden, dog faeces, tennis balls and various pieces of rubbish (beer bottles, crisp pkts, etc) which were never a problem before.		

Consultee	Date consulted	Date reply received
Objector 5	24/11/23	28/11/23
<p>It is not 'proposed' - it has been there several months. Get your facts right before you send any more letters. I object to the above proposal for the following reasons: was never advised of footpath either by council or Hopkins. It would be very dangerous for children to run into the farm drive. Today, my neighbour, who is also seriously affected by footpath has not received this letter why?? Is this what happens to our 'supposed' original letters. List of objections to proposed(already there) footpath.</p> <p>1 23/03/23 Letter to Philip Ridley re footpath which was going to be constructed at the end of my property about 1mtr away from boundary. I asked why I had never been advised either by council or Hopkins Homes. I AM STILL WAITING FOR REPLY.</p> <p>2. Phoned and spoke to Mia Glass who eventually came out and sent me a letter: I would have been disgusted with - _ spelling and grammar mistakes. She advised she would ensure her 'boss' contacted me 3-5-23 STILL WAITING, ENF/23/0079/COND</p> <p>3. Contacted @Green' Councillor re dog poo, beer bottles and cans already being thrown into my garden from people who repeatedly broke down the fences erected to stop people going out onto farm drive. The Councillor Wakeling contacted Hopkins and Council to ask I had a security fence erected to allay my fears of break ins. =ZILCH.</p> <p>4. Spoke to Mr XXXX Hopkins Homes he dismissed my pleading for a fence and more or less laughed in my face.</p> <p>I am a XX year old single disabled person living in fear of being broken into and I cannot defend myself.</p>		

Consultee	Date consulted	Date reply received
Objector and supporter 6	24/11/23	21/11/23
<p>While I have not received a copy of the letter regarding the footpath as I am outside the zone for Hill Farm Road, the new estate that has been built. I am very aware of the issues for both being in favour and against the proposal.</p> <p>I live at XXXXXX and while the address is XXXXXX. The access to the property is along the farm track that goes to and is owned by XXXXXXXX. My property used to be part of XXXXXXXX until the owners decided to split the farm. I have a right of access only. This works well and has not given me any challenges and the idea of a footpath across the newly designated green area is very appealing and I would make use of it.</p> <p>I am aware of issues, however, that could arise for the land owner who runs a business and I believe is being addressed for safety purposes. There has always been a small but none the less problematic nuisance with littering and dog poo bags being thrown over the hedge onto my land which is the orchard running along side the existing footpath. This increased during the pandemic and has not decreased. I often have to walk the perimeter to pick up various items, some being glass and cans. I am aware that my neighbour at Holton Orchard has had similar issues.</p> <p>I don't know how this can be addressed, as unfortunately it appears to be getting worse since the new footpath situation has arisen. On various occasions a dog (sometimes more than one) runs through the orchard, which in itself is not an issue, but if small children are around and especially for my neighbour who rents caravan spaces for holidays, this can be unnerving. Both ours and my neighbours enjoy deer using the land, that make runs through hedging and therefore attracts dogs. They do have clients with dogs but are very strict about them being on leads for the safety of all. They are also strict regarding fires and barbecues not being used, especially with last year and the dry weather. We have in the past walked the orchard to make sure nothing has caught or scorched. Notices at least need to be put in place and people must be made aware of the country code to hopefully make them feel responsible towards where they are, other people and wildlife. There also needs to be some form of notices to make sure people do not park on the driveway to XXXXXXXXXX. At best this would be a great nuisance, at worst this could be extremely dangerous if emergency vehicles were ever needed.</p> <p>Apart from being an expense I do not wish to address; I don't want to have to make where I live a fortress. The vast majority of my neighbours in Orchard Valley and those walking the path are a delight and always stop to pass the time when I or my husband are working outside.</p> <p>I do hope this is the right place to send my concerns, as I was unable to find anywhere else, as I do not have a letter or form to fill in. Thank you for taking the time to read this.</p>		

Consultee	Date consulted	Date reply received
Supporter 1, 2,3,4,5, 7, 8, 9, 10, 12, 15,16, 17,18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30,31, 32,33, 34, 35, 36, 38, 39, 40, 41,42	17/11/23	17/11/23 x 5, 18/11/23 x 3, 19/11/23 x 9, 01/12/23, 12/12/23 x 1, 14/12/23, 30/11/23 x 3,17/11/23 x 3,

		20/11/23 x 4, 21/11/23, 24/11/23, 22/11/23 x 3, 23/11/23 x 1, 28/11/23 x 4
We/I support the above proposal		

5. Consideration of the legal tests for making an order

5.1. Whether there is a need for the footpath

One hundred and forty residents of Blyth Vale and three adjacent landowners were sent an informal consultation letter, response form and plan, as shown in Appendix 10.1 and 10.2.

Six objections were received and 42 responses giving positive support for the proposal. Many already use the route, although it is not yet a public right of way and notices have been erected to make clear that there is no legal connection.

5.2. Whether it is expedient to create the footpath

a) The extent to which the creation would add to convenience/enjoyment to the public or convenience to residents.

This can be clearly seen from the comments received to the informal consultation that local residents wish to use the proposed route and would derive enjoyment and convenience from it

- This footpath is vital for the safety of children walking to Primary School in Holton. There are no pavements on part of the route. We feel it would benefit the community greatly, providing safer access to the Holton Primary School. The proposed footpath will greatly improve safety for those children who walk to Holton School/Nursery from Hill Farm Road
- This will link well with the footpath to the west of the junction of Hill Farm Road and Holton Road which leads to Halesworth Town Centre
- It opens a wide selection of paths.
- This would prove to be an excellent new pathway - safer for children and a shorter route for older people to Holton Village Hall which offers many activities for elderly folk.
- This proposal makes so much sense allowing us to walk safely almost to Holton Village
- We often use the farm shop on Holton Road and the footpath would be a much safer way to walk there than along the busy main road. The path would enable us to walk safely to Holton village to access the bus stop on Bungay Road. This would avoid having to walk along the busy main road to Halesworth to get a bus. It would allow us to enjoy a walk directly from our house onto Holton and around Holton pits without needing to walk along a busy road or drive to a car park. Other safe circular walks could also be done.
- It would be a bonus to walk to Holton Nursery/Garden Centre. It would also cut down the need to use the car to access the garden centre.
- I bought my bungalow because of the close links to the Holton footpath No 6. I have dogs and friends in Holton, this avoids walking near the road and feels safer and quicker.

- As a resident I would use it regularly to access the shops in Holton, visit friends in Holton and to walk in the area.
- It is necessary for dog walkers to get to Holton pits safely
- I don't have to walk alongside the busy Holton Road, I can follow footpath 6 into Holton, to the Village Hall, the Church and Holton Pits and to the garden centre and shop.
- a new public right of way will benefit both residents and non-residents. It will also be a safer option than walking down the busy Holton Road on skinny footpaths.
- it creates a link to the rest of Holton without walking along the busy main road.
- We do a lot of walking and we will use this new path.
- Its most needed.

b) the effect which the creation of the path would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28;

Objector 1 owns part of the land affected by the proposal and **objector 2** is a relation.. There is a narrow strip of land between the development and Objector1's land which is unregistered with the Land Registry and despite enquiries it has not been possible to ascertain the ownership. Holton Footpath no 6 runs from Holton Road up the occupation road owned by Objector 1 towards Holton Orchard and after approximately 117 metres it turns off to run northeast between an orchard and a field, which is outside the objector's ownership. It was diverted out of the orchard in 1957.

A site meeting was held with the objector and the family on 14 June 2023 and meeting notes were emailed to them on 28 June 2023. See Appendix 10.3. Additional clarification was given in the site meeting notes with regard to the provisions in Section 28 of the Highways Act 1980 under which compensation may be payable, as this was not verbally covered in the site meeting. A copy of 'Creation of new public rights of way: A code of practice for Local Highway Authorities and landholders involved in negotiating compensation (Countryside Agency 2005)' will be sent to the landowner with this report.

The District Valuer will be requested to calculate a reasonable compensation amount which can then be discussed with the landowner. If an agreement on compensation can be reached this would be able to be paid sooner. Compensation may also be made by introducing works such as a gate and fencing across or beside the route. If a decision is requested by the landowner from the Lands Tribunal on compensation levels, then this request must be made within 6 months of an order coming into effect.

Photos are attached in Appendix 10.4 showing lines of sight at the proposed crossing point and the proposed route. At the site meeting on 14 June an offer was made to install a gate to ensure that walkers do not come straight out onto the road to Holton Orchard without stopping. This can be a two-way metal self-closing gate which complies with BS5709:2018. Offers to install short fences and signs to deter the public from walking up the road were made but refused by the landowner at a subsequent meeting on 15 November 2023. Footpath Holton No 6 has exited onto the road to Holton Orchard since 1957 with no incidents reported to the Highway Authority but the sight lines at this side are better. See Appendix 10.5. The road here is

single track and it is expected that vehicle speeds would be relatively low, particularly as pedestrians could already be walking up the road or its verge on Holton footpath no 6.

The developer has sought to fence off the proposed connection from their land onto the unregistered land with Heras fencing which has been repeatedly unfastened and moved by persons unknown and the developer has put up notices informing the public that 'This is not a public right of way and access through is not currently permitted. By continuing, you are technically trespassing onto neighbouring private land.' This has been reiterated in the informal consultation letter and the response sent to those who responded by email. Halesworth Town Council have also been asked to remind residents not to cross over this land.

Other objectors do not own land directly affected by the creation proposal so would not be entitled to compensation.

Objector 3 cites possible youths using pathway to create havoc, knife crimes.

A search of the Suffolk Police website shows that for Halesworth there were three cases of stop and search resulting in the finding of offensive weapons in the year up to December 2023, two in 2022 and none in 2021. For the whole of the Halesworth and Southwold area the most commonly reported crimes during December 2023, the latest month for which figures are available, were 13 violence and sexual offences reported, thefts 8, criminal damage and arson 7 and anti social behaviour 6. This covers an area including Dunwich, Westleton, Blyford, Darsham, Thorington, Mells, Flixton, Benacre, Redon and Walberswick as well as Halesworth and Holton. It is unlikely that this additional pedestrian route of 442 metres will substantially impact on anti-social behaviour any more than adding 1400 metres of residential roads, as the development has done. The area between the residential development and Holton Orchards is designated as public open space so anyone has a right to access that area, even if a public footpath is not created. However, this is not a matter that impacts on the legal tests.

Objector 4 cites nuisance from dogs and litter. However, the property boundary is at least 14 metres from the proposed route but a walked grass track is much closer to the property which is part of the informal walkways around the public open space and is well used as evidenced by the trodden path. Any nuisance may result from the increased number of residents using the informal pathways in the open space rather than purely from the proposed public footpath. The fence of the property is also not particularly substantial and includes a stile/gate which the property owner may have used previously to access the farmland, prior to development as shown in Appendix 10.6. Again, this is not something that impacts on the legal tests to be considered.

Objector 5 objects to the footpath but the objection is based on a planning decision and not on the proposal being considered. Consultation has been undertaken as suggested by good practice. It should be noted that this consultation is not an opportunity to question planning permission decisions, only to comment on the proposed creation of a public right of way. Complaints of litter and dog faeces may be a public nuisance and relate to general use of the public open space, rather than the proposed footpath and do not factor in the consideration of the legal tests. This property has a gate onto the public open space which predates the development and the long boundary is adjacent to the existing route of footpath 6 in which fence there is also a gate, shown in Appendix 10.7. It is possible that less walkers will be coming up from Holton Road along the existing route to connect to Orchard Valley and the school site if they can access Holton footpath 6 from the Hill Farm Road through the open space on this proposed route.

Objector 6 supports the proposal but has reservations about litter. However, the land borders the existing footpath 6 so this is an existing problem, not one connected to the proposed route. The issue of dogs running through the orchard refers to an existing route, not the proposed one and so does not impact on the decision to be made regarding the legal tests.

- 5.3. Whilst the site is not specifically identified in the Suffolk County Council Rights of Way Improvement Plan - Suffolk Green Access Strategy 2020- 2030 , ([suffolk-green-access-strategy-2020-2030](#)) it notes that 'opportunities to develop the network..., in response to a new development... can enable new routes to be created... (p9 & p33)
- 5.4. 'Where relevant, (we) should seek the improvement and creation of new offsite public rights of way to link to other public rights of way or to features of interest'. (p 33))
- 5.5. The Rights of way Improvement Plan also seeks to produce 'a public rights of way network that meets the needs of today's user.' (p25)
- 5.6. Section 29 of the Highways Act 1980 which states that a local authority 'must have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features' is not applicable, as this route is no longer agricultural land.

6. Determination of opposed orders

- 6.1. Paragraph 9.2 of in the Planning/Rights of way protocol in the constitution, says that ESC applications should not be decided on a delegated basis. Therefore, applications made by ESC and opposed orders need to go to the Planning Committee
- 6.2. The changes made by such orders affect the right of the public to cross private land and so can be contentious and the subject of impassioned debate. Because of this it is important that the system of making decisions on changes to the public rights of way network is seen to be open and impartial, consisting of sound judgements made for justifiable reasons and considering the legal tests required.

7. Costs

- 7.1. East Suffolk Council is paying all the costs associated with this proposal.
- 7.2. If a legal order is made and is opposed, and the council decides to send it to the Secretary of State for determination, the costs of determination will vary depending on how the order is determined- by public inquiry, hearing or written representations but could range from £1000 up to £5000 approximately.

8. Conclusion

The purpose of a public path order is to allow changes to be made to the rights of way to suit evolving needs and to ensure, in making these changes, any opposing interests are not disproportionately affected. In this case it is considered that the proposal is in the interests of the public and that the tests for an order under Section 26 of the Highways act 1980 can be

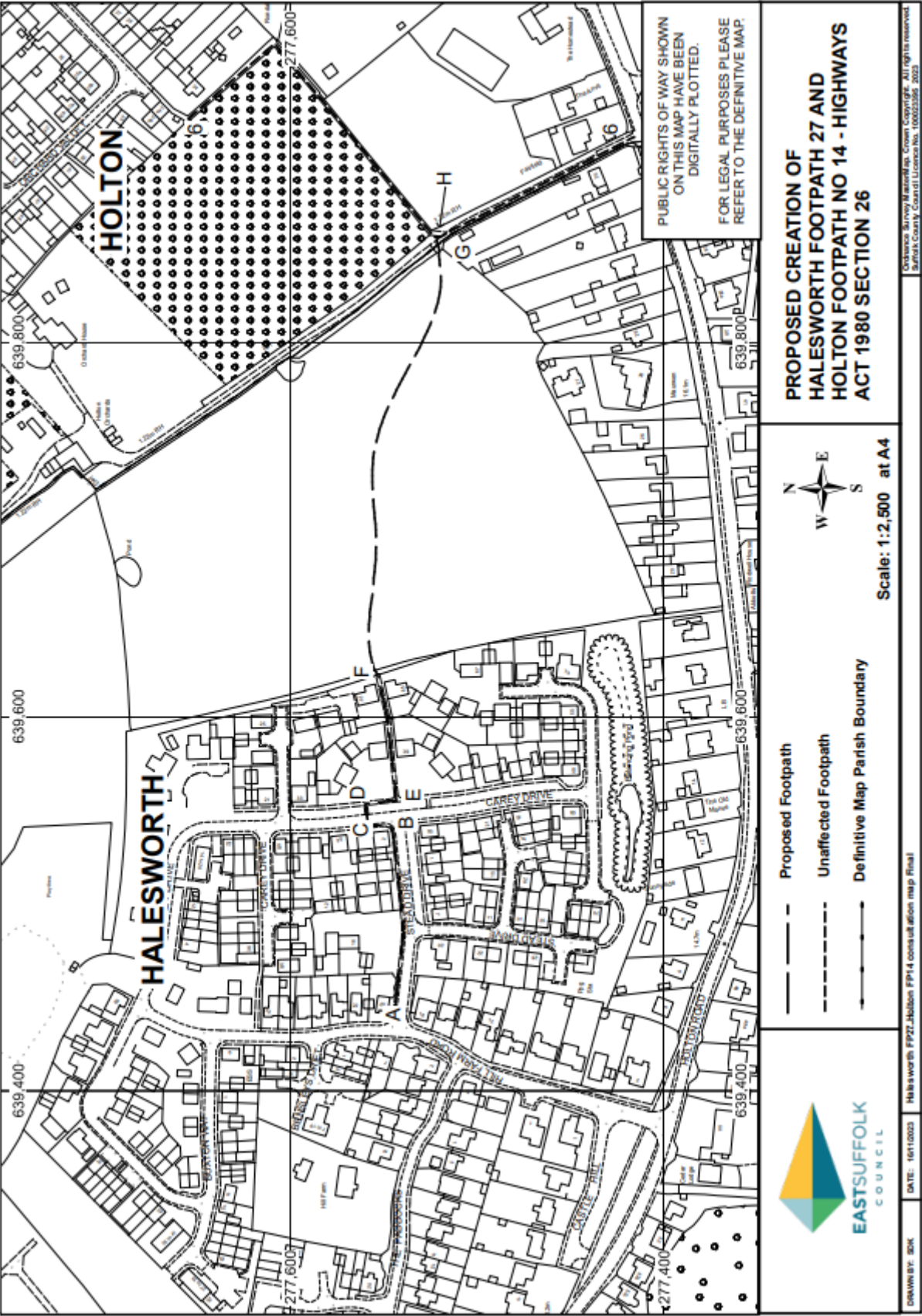
met when consideration of the provisions for compensation and mitigation are taken into account.

9. Recommendation

- 9.1. That councillors authorise the making of a public path order under Section 26 of the Highways Act 1980 in recognition of the need for such a route expressed by the public and considering measures to mitigate the effect on the landowner, including compensation, under Section 28 of the above act, to create Halesworth Footpath No 27 and Holton Footpath No 14.
- 9.2. That subject to no objections being received within the statutory notice period the order be confirmed.
- 9.3. That should objections be received which are not withdrawn the Order shall be sent to the Secretary of State for determination.

10. Appendices

- 10.1 Plan showing proposed creation of Halesworth Footpath 27 and Holton Footpath No 14.
- 10.2 Informal response form and consultation letter.
- 10.3 Site Meeting Notes. 14.06.23
- 10.4 Photos showing proposed route and lines of sight at the proposed crossing point
- 10.5 Photos showing sight lines from existing Holton Footpath No 6 at junction with road to Holton Orchard
- 10.6 Photo showing well trodden route around Public Open Space beside Objector 4's property and stile/gate in fence
- 10.7 Photos showing gates in Objector 5's fence and line of existing Holton Footpath No 6.



EAST SUFFOLK COUNCIL

**Return to: Mrs N Biddall, Public Rights of Way Officer
East Suffolk Council, Riverside, 4 Canning Road, Lowestoft, NR33 0EQ**

Email: rightsofway@eastsuffolk.gov.uk

From:

File Ref: RoW.013.

SUBJECT:

Highways Act 1980. Section 16.

Proposed creation of footpath between Hill Farm Road and Holton footpath no 6.

Please delete as appropriate:

- a) I/We have no comments on or objections to the above proposal.
- b) I/We support the above proposal.
- c) My/Our comments on the above proposal are as follows (please expand on a separate sheet if necessary):

.....
.....
.....

- d) I/We object to the above proposal for the following reasons (please expand on a separate sheet if necessary):

.....
.....
.....

Signed:

Dated:



Our ref: RoW.013
Date: 17 November 2023
Please ask for: Nicky Biddall
Direct dial: 01394 444508
Email:
rightsofway@eastsuffolk.gov.uk

**Proposed creation of public footpath to link Hill Farm Road with
Holton footpath no 6 - Highways Act 1980 Section 26**

Dear Consultee,

East Suffolk Council is considering a proposal to create a new public right of way linking Hill Farm Road with the existing Holton footpath no 6 as shown on the attached map.

Under the Highways Act 1980, Section 26 where it appears to the Local Authority that there is a need for a footpath over land in the area and they are satisfied that, having regard to -

(a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and
(b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 of the Highways Act 1980,

it is expedient that the path or way should be created.

The path would provide a pedestrian link between the residential areas off Hill Farm Road, Halesworth and the area of Holton, including the primary school and nursery. It would avoid the need to walk along the pavement of the busy Holton Road. It will also link up with the public rights of way network to the north through the public open space paths.

Consultees should note that whilst they can walk along the proposed route from A to G to look at it, there is no link between G and H and they should access that section via Holton footpath no 6, either from Holton Road or from Orchard Valley.

The width of the new path would be 1.8 metres. Between A and F it would have a tarmac bound surface. Between F and H it would have an unbound surface comprised of 100-150mm of a type 1 aggregate with approx. 20mm of compacted fines on top. A pedestrian

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ

metal two-way self-closing gate is proposed to be sited on the west side of the Holton Orchard track.

I would be grateful if you could let me have your comments on the proposal by returning the attached form to me, preferably by email, or by post to the address below, by 15 December 2023 at the latest. Please note that your comments cannot be treated as confidential and may be inspected by interested parties. For further information please refer to East Suffolk Council's Rights of Way Privacy Notice which can be viewed online at <http://www.eastsuffolk.gov.uk/assets/Your-Council/Access-to-Information/Privacy-Notices/Rights-of-Way-Privacy-Notice.pdf>

If you require any further information from me in order to comment please do not hesitate to contact me. Also, should you have any queries about East Suffolk Council's rights of way policies and administrative process in general, please address these to me at rightsofway@eastsuffolk.gov.uk

Yours Sincerely



Mrs Nicky Biddall
Rights of Way Officer
East Suffolk Council
Riverside
4 Canning Road
Lowestoft
NR33 0EQ

Appendix 10.3

Site meeting at 4.30pm on Wednesday 14 June 2023

Present:

Ben Woolnough (BW) Planning Manager, East Suffolk Council
Nicky Biddall (NJB) Rights of Way Officer, East Suffolk Council
(AD) joint owner of SK99090
(SD) joint owner of SK99090
(RD) son of AD and SD

BW began by outlining the planning application that had led to the development and that it had not been recognised at the time that the developer did not own all the land that would need to be crossed by a new public footpath in connecting it to Holton Footpath No. 6. In the planning application determination, it had been recognised that connectivity of the site was important from the path in the open space to provide a safe and direct route of access to the Primary School. The existing route along the Street is not safe for new development given the lack of pavement. Apologies were given that the XXXXXX were not contacted about this earlier, but it was hoped that we could move forward together now we had made contact. BW set out that the planning officer at the time assumed the new open space path directly met Footpath 6. It does not and there is gap of separate ownership of approximately 3 metres.

SD and AD explained their concerns about a link from the open space of the Hopkins Development to footpath 6.

- The proposed connection point on the west side of the drive is in a blind spot for vehicles coming up the drive from the road and children/ dogs could run out into the drive - NJB suggested that a staggered barrier or gate could be provided by ESC to ensure that people had to slow down before crossing. The position in detail to be agreed with AD & SD.
- People continuing north once they have come onto the drive, both from the existing path and the proposed one – BW suggested short lengths of fencing parallel to the footpath on the north side on each verge and possible markings on the drive surface to show direction of travel. NJB suggested ESC could provide small signs saying ‘No Public Right of Way. Keep to marked footpath’.
- SD suggested a tall fingerpost with two fingers (similar to what is at the Holton Road end of the path) would be more visible than the waymark post with the yellow waymark disc on it at the corner. – NJB agreed that that would be helpful.
- AD and SD said that people have been breaking through the fence further up to trespass on the land and the developers had removed fencing and hedging on their land and replaced it with Heras fencing – BW agreed to look at the planning application to see what and when the developers are required to deliver in terms of boundary treatments and to request that they put up notices explaining that there is no connection between the new pathways in the open access area and the existing footpath No. 6
- SD asked what would happen if someone fell crossing the drive. NJB explained that Suffolk County Council are responsible for maintaining the surface of a public right of way so that it is suitable and safe to use, rather than the landowner.

NJB outlined the process for creating a new public right of way (Under Section 26 of the Highways Act 1980.

- **As additional clarification** - we will produce a map showing the proposed route and send it to all landowners for them to see exactly what is proposed, before we go any further in the process. This will require input from Suffolk County Council Highways to ensure that we connect onto adopted highway at the Carey Drive/Stead Drive end of the route and Suffolk County Council Public Rights of Way to ensure we connect to footpath 6 at the eastern end of any new /proposed path so may take a while to produce.)
- The proposal is then sent to the local parish council, district councillors and the local Ramblers Association representatives, Auto Cycle Union, Byways and Bridleways Trust, British Horse Society, Cycling UK, Open Spaces Society and a check made to see if any utilities- water, gas, electric, etc would be affected. If objections are received within the 28-day consultation period, then mediation is attempted to come to an agreement.
- A legal order is then made - A Public Path Creation Order - and this has to be advertised on site and in a local newspaper and in a council office or library nearby and on the East Suffolk Council and Suffolk County Council websites for a consultation period of 28 days. If no objections are received, then a report is made to the ESC Planning Committee who agree to the order being confirmed. If objections are received, then the Planning Committee has to decide if they wish to proceed with the order which is then sent to the Planning Inspectorate/ Secretary of State for an Inspector to make to a decision on whether to confirm the Path Creation Order.
- **As additional clarification** - if the order is to be confirmed then different notices are displayed on site and all the other places as before and a period of 42 days is given when the decision can be challenged in the High Court, if the legal process required above has not been correctly followed. This is not another opportunity for any objections to be made to the order.
- Any works necessary for the path to be suitable for use, such as the signage, gates and fence would then be installed and the new route opened for public use.
- **As additional clarification** - under Section 28 of the Highways Act 1980 a landowner may claim compensation for loss caused by a public path creation order if it can be shown that the value of an interest of a person in land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land in consequence of the coming into operation of a public path creation order. Any claim must be made within 6 months of the confirmation of an order. Compensation can only be claimed for any loss due to the effect of the order, not for damage caused by persons trespassing prior to the confirmation of the order.)

BW and NJB agreed that they would send a copy of the site meeting notes to AD, SD & RD for them to check and confirm what had been discussed.

Meeting closed at 5.15 pm.

Appendix 10.4 Photos showing proposed route and lines of sight at the proposed crossing point



Looking north. (Fallen tree would be cleared if the order was successful)



Looking south towards Holton Road from west side of proposed crossing point



Looking from middle of road south towards Holton



Looking from road towards west into public open space beyond the fence

Appendix 10.5 Photos showing sight lines from existing Holton Footpath No 6 at junction with road to Holton Orchard



Looking south from existing exit onto road on Holton Footpath No 6



Looking north from existing exit onto road on Holton Footpath No 6

Appendix 10.6 Photo showing and stile/gate in fence of Objector 4's property



Appendix 10.7 Photo showing accesses into Objector 5's property and gate in fence



Existing gate from public open space into garden taken from proposed footpath



Existing gate on Holton footpath No 6 into garden

EAST SUFFOLK COUNCIL

PLANNING COMMITTEE – NORTH

Outcome Sheet – 12 March 2024

Item	App No	Location	Proposal	Case Officer	Member Overturn Y/N	Action
6	DC/23/0792/FUL	Post Office 51 London Road North Lowestoft Suffolk NR32 1AA	Adaptive reuse of grade II listed post office and auxiliary buildings for multifunctional art-based centre.	Katherine Rawlins, presented by Joe Blackmore	N	Approve
7	DC/23/1407/LBC	Post Office 51 London Road North Lowestoft Suffolk NR32 1AA	Listed building consent works in association with proposals for adaptive reuse of grade II listed post office and auxiliary buildings for multifunctional art-based centre.	Katherine Rawlins, presented by Joe Blackmore	N	Approve
8	DC/24/0011/FUL	70 Firs Farm Cottages The Warren Snape Saxmundham Suffolk IP17 1NS	Installation of a detached timber outbuilding	Becky Taylor	N	Approve
9	DC/24/0087/FUL	16 Nicholas Drive Reydon Southwold Suffolk IP18 6RE	Single storey rear extension to provide an open-plan sitting/dining/kitchen area, a utility room and a study.	Ellie DeGory	N	Approve
10	DC/23/4817/FUL	1 Broadland Close Worlingham Beccles Suffolk NR34 7AT	Remove hedge on boundary and replace with 2m high close boarded fence	Debbi Wicks, presented by Joe Blackmore	N	Approve
11	DC/24/0754/CON	Halesworth No 27 & Holton No 14	Proposed Creation of a Public Footpath	Nicola Biddall	N	Recommendation agreed; see report for full details of recommendation.