

**PLANNING COMMITTEE:** 19<sup>th</sup> May 2020  
**DEPARTMENT:** Planning Service  
**DIRECTOR OF PLANNING:** Peter Baguley

**APPLICATION REF:** N/2020/0175

**LOCATION:** Development Land rear of Hunsbury Park Primary School,  
Dayrell Road

**DESCRIPTION:** Application for the permanent diversion of a footpath at Dayrell Road

**WARD:** West Hunsbury Ward

**APPLICANT:** Mr Ian Ellison  
**AGENT:** N/A

**REFERRED BY:** Director of Planning and Sustainability  
**REASON:** No delegated authority to make the Order

**DEPARTURE:** No

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#### **APPLICATION FOR DETERMINATION:**

#### **1 RECOMMENDATION**

1.1 That an Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to permanently divert part of Public Right of Way, Bridleway BH4, as detailed on the submitted Section 257 application and shown on the plan attached.

#### **2 THE PROPOSAL**

2.1 The Section 257 application has been submitted to permanently divert part of the existing Bridleway BH4 which runs from Hunsbury Hill Country Park eastwards towards Danes Camp Way and then extends north in line with Danes Camp Way to meet a footpath to the rear of properties on Yarwell Square. The diversion is required to enable development to be carried out in accordance with planning permission granted under Part III of the Town and County Act 1990.

2.2 The relevant planning permission relates to the development of land to the rear of Hunsbury Park Primary School, Dayrell Road, approved by Committee on 25<sup>th</sup> March 2020 for the erection of 73 dwellings with associated parking, open space and landscaping (ref: N/2019/1225).

#### **3 SITE DESCRIPTION**

3.1 The development to which the bridleway is related comprises a currently overgrown and unkempt piece of undeveloped land approximately 3.007 hectares in size, located within a predominantly residential area approximately 1.5 miles to the southwest of Northampton town centre. To the west

of the site is Hunsbury Park Primary School, to the north is existing housing, to the east is Danes Camp Way and to the south is Hunsbury Hill Country Park.

- 3.2 Access to the proposed development would be via the existing roundabout on Dayrell Road, which also serves as vehicular access to a number of residential properties in the vicinity, as well as Hunsbury Park Primary School and community centre.
- 3.3 Public Right of Way, Bridleway BH4 connects from the north of the site extending southwards along the eastern boundary, and then in a south westerly directing along the southern boundary of the site connecting to Hunsbury Hill Country Park.

## **4 PLANNING HISTORY**

- 4.1 N/2019/1225 – Erection of 73 no. dwellings with associated parking, open space and landscaping. Approved 25/03/20.
- 4.2 N/2017/0836 – Outline planning permission for the development of up to 50 no. dwellings with associated access, green infrastructure, open space and landscaping (all matters reserved except for access). Approved 28/03/18.

## **5 PLANNING POLICY**

### **5.1 Statutory Duty**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and the Northampton Local Plan (1997) saved policies.

### **National Policies**

- 5.2 **National Planning Policy Framework (NPPF)** sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:
- 5.3 Section 2 of the NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 91 encourages the provision of healthy, inclusive and safe places and layouts that encourage walking and cycling. Paragraph 98 seeks to ensure planning decisions protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users. Paragraph 102 encourages opportunities to promote walking and cycling.
- 5.4 **West Northamptonshire Joint Core Strategy (2014)**

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy S10 requires that developments are used to facilitate more sustainable means of transport, whilst Policy C2 states that new developments should mitigate any impacts on the transport system.

## **6 CONSULTATIONS/ REPRESENTATIONS**

Comments received are summarised as follows:

- 6.1 **Highway Authority (Definitive Map Officer)** – advises that as planning authority the Council has power under S257 of the Town and Country Planning Act 1990 to divert a public bridleway if it is necessary to do so in order for development for which planning consent has been granted to be implemented. The Council will need to satisfy themselves that a diversion is necessary on the strength of the development planned. The proposed diversion between X and W seems very close to the edge of the adopted highway. For legal reasons the defined width of the diverted bridleway must not overlap with the legal width of the all-purposed highway. Any part of the diverted bridleway which overlaps with the existing carriageway legally would count as having been extinguished rather than diverted.
- 6.2 **Ramblers Association** – no objection.
- 6.3 West Hunsbury Parish Council, Ward Councillors, NCC Development Management, British Horse Society and Open Spaces Society – no comments received.

## **7 APPRAISAL**

- 7.1 The relevant test to be applied to applications of this type is whether it is necessary to divert the bridleway in order to implement a previously approved development. In this particular instance, planning permission has been granted for development of the site for the erection of 73 no. dwellings with associated parking, open space and landscaping.
- 7.2 The approved layout has been designed to maximise and make the most efficient use of the land available. This has resulted in some of the dwellings and rear gardens extending over the alignment of the existing bridleway. In addition, in order to mitigate the drainage impacts of the proposed development, the proposed Sustainable Urban Drainage System (SuDS) includes the provision of a swale along the eastern boundary of the site which extends over the existing alignment of the bridleway.
- 7.3 As planning permission does not confer a right to build over or alter the use of a public right of way, it would not be possible to construct the development in accordance with the permission unless the bridleway were diverted.
- 7.4 The section of the existing bridleway that is to be diverted has a distance of approximately 355m and traverses the site in a straight line along the southern boundary and then extends northwards along the eastern boundary. The proposed diverted route measures approximately 353m deviating slightly from its current alignment along the southern and eastern boundaries of the site. As a consequence, the proposed diversion does not represent an increase in the length of the bridleway along its diverted route. The diverted route is proposed to be 3m in width along its length with a grass surface. For these reasons, it is not considered the proposed diversion would create an undue level of inconvenience for future users of the bridleway.
- 7.5 In respect of comments received from the Highway Authority with regard to a potential overlap of the diverted route onto highway land, the applicant has submitted plans which demonstrate that the entirety of the proposed 3m wide diverted bridleway route would be situated within land owned by the applicant and would not extend into highway land.

## **8. CONCLUSION**

- 8.1 It has been demonstrated that the approved development would obstruct part of Bridleway BH4 and that the proposed diversion would not result in inconvenience or loss to the public in general. The making of the diversion order would enable planning permission already granted to be carried out whilst retaining the use of Bridleway BH4. Accordingly, it is considered appropriate for a diversion Order to be made under the provisions of Section 257 of the Town and Country Planning Act 1990.

## **9 BACKGROUND PAPERS**

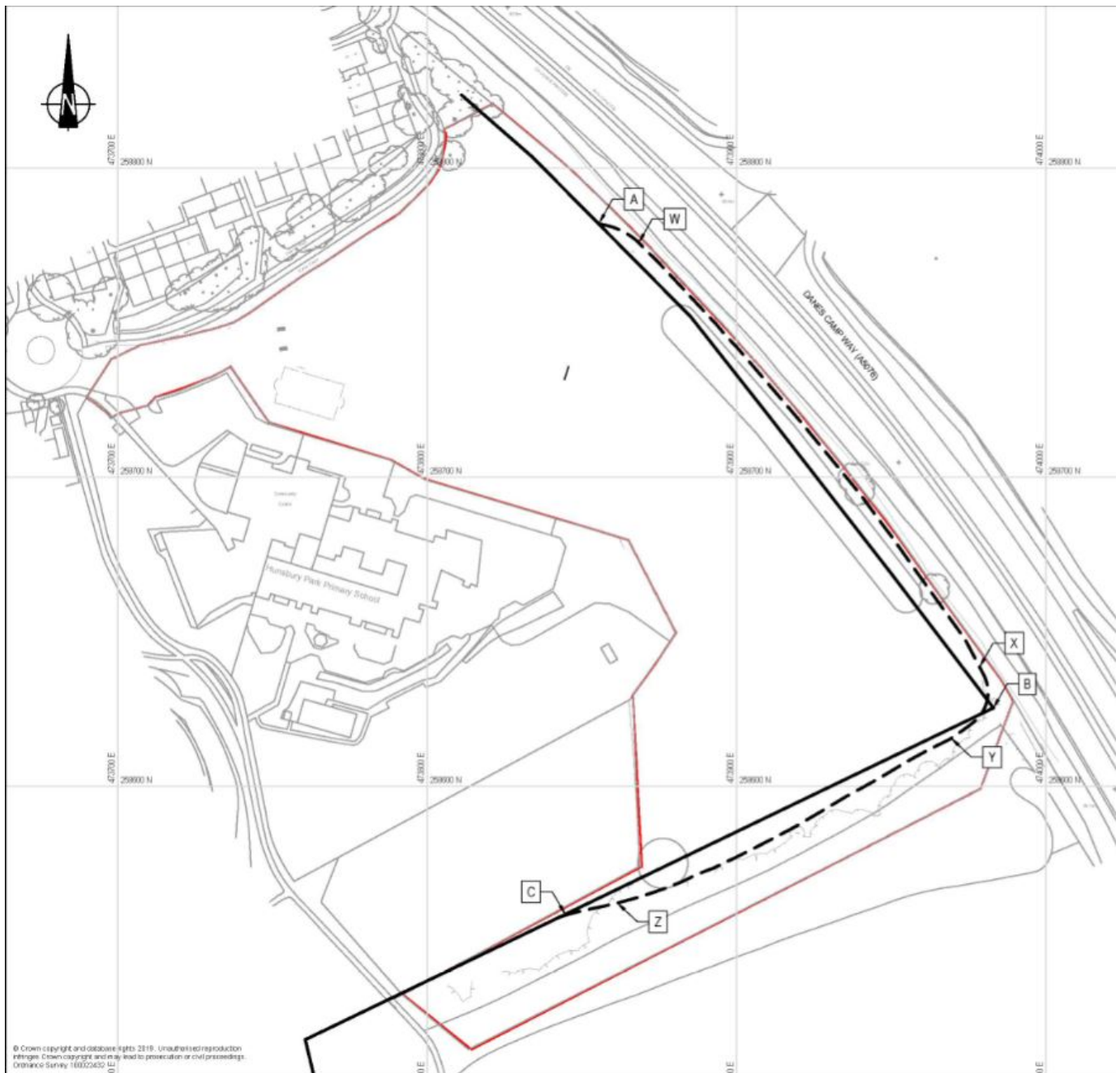
9.1 N/2020/0175 & N/2019/1225.

## **10 LEGAL IMPLICATIONS**

10.1 None.

## **11 SUMMARY AND LINKS TO CORPORATE PLAN**

11.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



**NOTES:**

**1. BRIDLEWAY ROUTE:**

EXISTING ROUTE: A - B - C

PROPOSED ROUTE: A - W - X - Y - Z - C

**LAND AT DAYRELL ROAD, NORTHAMPTON  
SECTION 257 APPLICATION  
PROPOSED BRIDLEWAY DIVERSION**

**KEY:**

- TITLE BOUNDARY
- EXISTING BRIDLEWAY
- - - PROPOSED BRIDLEWAY