

PLANNING AND LICENSING COMMITTEE

14 March 2023

PROPOSED DIVERSION OF FOOTPATH E229, KETTON

Report of the Strategic Director for Places

Strategic Aim:	A special place	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr R Powell, Deputy Leader and Portfolio Holder for Planning, Highways and Transport	
Contact Officer(s):	Penny Sharp, Strategic Director for Places	01572 758160 psharp@rutland.gov.uk
	Stuart Crook, Highway Asset & Policy Manager	01572 758260 scrook@rutland.gov.uk
Ward Councillors	Ketton - Cllr G Brown and Cllr K Payne	

DECISION RECOMMENDATIONS

That the Committee:

1. Approves the application to divert public footpath E229 and authorises legal services to make an order under section 257 of the Town and Country Planning Act.

1 PURPOSE OF THE REPORT

- 1.1 To consider an application (Appendix A) submitted on 9th of February 2022 by Kate Wood of Eddisons on behalf of Beeson Wright Limited to divert part of public footpath E229 in the parish of Ketton, as shown on the attached plan (Appendix B).
- 1.2 The application is made under section 257 of the Town and Country Planning Act 1990 (the 1990 Act), which gives the local planning authority (Rutland County Council) the power to make orders to extinguish or divert footpaths, bridleways, or restricted byways where it is necessary to enable development for which planning permission has been granted.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 In 2020 planning permission was sought to alter the access from the High Street to

Home Farm in Ketton and convert several old farm buildings into modern housing and offices. The application sought to construct a privately maintained estate road, over which the public footpath would be diverted and was submitted under reference 2020/1254/MAF.

- 2.2 It's recognised that the legal route of footpath E229 is rarely used. An alternative route more commonly used by the public is where the applicant seeks to divert the footpath and construct the estate road.
- 2.3 The Planning and Licensing Committee considered the application on the 11th of January 2022. The effects of development on public rights of way are material considerations, and in their report the case officer stated that, *'in terms of the public footpath running through the site, the access lane does follow the existing route and whilst it would preferable be on a separated alignment to the road, in this case it would be difficult to disrupt the layout by providing a separate PROW route through the development. In terms of the overall length of the footpath this short section on the development is a minor part'*.
- 2.4 Planning & Licensing committee members accepted the case officer's recommendation, approval subject to conditions, and a decision notice was eventually issued on the 29th of July 2022.
- 2.5 Public footpath E229 is approximately 3.5 km in length and connects Home Farm on the High Street in Ketton, to bridleway E228 by Woodside Farm just south of Empingham. It's a category 2 (semi-rural) footpath but is well used and features on several long distance and promoted routes, including the Rutland Round, the MacMillan Way, and the Hereward Way.
- 2.6 It [footpath E229] has been the subject of significant local interest being the subject of a 7-year temporary diversion to enable the surface working of minerals.
- 2.7 Following the expiration of the temporary diversion in 2014, the reinstated footpath was 'constructed' to a standard suitable for a bridleway (including the new bridge over the quarry haul road). This was done to avoid delaying the temporary diversion in the face of undetermined applications for higher (bridleway) rights but presents the council with an opportunity to make a significant improvement to the [rights of way] network for cycling and equestrian interests.

3 LEGAL FRAMEWORK

- 3.1 Before exercising its powers, a local planning authority must consider whether a proposal meets the requirements of the Town and Country Planning Act (the 1990 Act). It must also consider any other relevant legislation, supplementary guidance, and policy.
- 3.2 Section 257 of the Town and Country Planning Act 1990:

Footpaths bridleways and restricted byways affected by development:

Orders by other authorities.

- (1) *Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted*

byway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III or section 293A, or

(b) by a government department.

(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that—

(a) an application for planning permission in respect of development has been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a) 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;

(b) for authorising or requiring works to be carried out in relation to any footpath, bridleway or restricted byway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) 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, bridleway or restricted byway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath, bridleway or restricted byway which is temporarily stopped up or diverted under any other enactment.

(4) In this section “competent authority” means—

- (a) *in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State or by the Welsh Ministers, who would have had power to grant it;*
- (b) *in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.*
- (c) *in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under section 62A or to the Welsh Ministers under section 62D, 62F, 62M or 62O, the local planning authority to whom the application would otherwise have been made.*

3.3 Section 259 of the Town and Country Planning Act 1990:

Confirmation of orders made by other authorities.

- (1) *An order made under section 257 or 258 shall not take effect unless confirmed by the appropriate national authority or unless confirmed, as an unopposed order, by the authority who made it.*

- (1A) *An order under section 257(1A) may not be confirmed unless the appropriate national authority or (as the case may be) the authority is satisfied—*
 - (a) *that planning permission in respect of the development has been granted, and*
 - (b) *it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.]*

- (2) *The appropriate national authority shall not confirm any order under section 257(1) or 258 unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.*

- (3) *The time specified—*

- (a) *in an order under section 257 as the time from which a footpath [F6, bridleway or restricted byway] is to be stopped up or diverted; or*
- (b) *in an order under section 258 as the time from which a right of way is to be extinguished,*

shall not be earlier than confirmation of the order.

- (4) *Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.*
- (5) *The appropriate national authority, for the purposes of this section, is—*
 - (a) *in relation to England, the Secretary of State;*
 - (b) *in relation to Wales, the Welsh Ministers.*

3.4 Section 149(1), Equality Act 2010:

In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010. Pursuant to these legal duties Councils must, in making decisions, have due regard for the need to:

- (1) eliminate unlawful discrimination
- (2) advance equality of opportunity
- (3) foster good relations on the basis of protected characteristics

4 POLICY FRAMEWORK

4.1 [DEFRA Circular 1/09](#) states at section 7.8:

In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic.

4.2 [DEFRA Circular 1/09](#) states at section 7.11:

The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or

extinguishment of the right of way, will invariably be made or confirmed...

4.3 [DEFRA Circular 1/09](#) states at section 7.15:

The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.

4.4 [Rutland County Council Rights of Way Improvement Plan](#) (second edition) action 4B:

Ensure that new development not only preserves but enhances the local rights of way network, either within the limits of development or beyond, and publish guidance for developers defining best practice. Existing paths within the limits of development should be improved by the dedication of additional width and/or higher rights, whilst off-site improvements should focus on the creation of new routes to integrate the development into the wider network:

Development is often seen as detrimental to the rights of way network, and perhaps in the past we haven't always fully appreciated its value. We believe that in the future developers should be required to enhance rights of way affected by their proposals in anticipation of increasing levels of use and raised expectations.

4.5 [Rutland County Council Rights of Way Improvement Plan](#) (second edition) action 2C:

Local authorities have discretion in how they exercise their powers to divert right of ways. Such decisions should not be taken lightly and when resources are limited so the 'do-nothing' option is going to appear far more appealing unless an application has clear public benefit. Otherwise, we're using our resources on a power, to the advantage of owners and occupiers, whilst possibly having to neglect our statutory duties which have wider benefits.

4.6 [Rutland Local Plan](#) Policy CS23 (Green infrastructure, open space sport, and recreation):

The existing green infrastructure network will be safeguarded, improved, and enhanced by further provision to ensure accessible multi-functional green spaces by linking existing areas of open space. This will be achieved by:

a) the continued development of a network of green spaces, paths and cycleways in and around the towns and villages

b) requiring new development to make provision for high quality and multifunctional open spaces of an appropriate size and will also provide links to the existing green infrastructure network;

c) resisting development resulting in the loss of green infrastructure or harm to its use or enjoyment by the public. Proposals involving the loss of green infrastructure will not be supported unless there is no longer a need for the existing infrastructure, or an alternative is provided to meet the local needs that is both accessible and of equal or greater quality and benefit to the community;

d) resisting the loss of sport and recreation facilities where they are deficient and supporting the provision of additional new facilities in an equally accessible location as part of the development, particularly where this will provide a range of facilities of equal or better quality on a single site or provide facilities that may be used for a variety of purposes.

5 CONSULTATION

- 5.1 Responses to the consultation [attached at Appendix B] on the proposed development made several references to the proposed diversion and the impact [of the development] on public footpath E229.
- 5.2 Consultees, including both the local representative of the Ramblers Association and the parish council, expressed concern about the construction of a privately maintained estate road over a popular public footpath, to create a 'shared surface'.
- 5.3 The Rutland Countryside (Local) Access Forum considered the effects of the proposed development, and the application to divert footpath E229, at a meeting held on the 9th of March 2022. Members raised no objections to the proposals.

6 ADDITIONAL CONSIDERATIONS

- 6.1 Public footpath E229 is a highway maintained at public expense. The council has a duty under [Section 41 of the Highways Act 1980](#) to maintain all such highways in a condition suitable for use by the public.
- 6.2 There is no duty to maintain to a higher standard facilitating private (vehicular) use and by constructing an estate road over public footpath E229 lines of responsibility in relation to maintenance of the surface may become blurred. Those exercising private vehicular rights over the footpath will need to take responsibility for and bear the costs of maintenance.
- 6.3 It is an offence under [Section 34 of the Road Traffic Act](#) to drive a mechanically propelled vehicle over a public right of way without lawful authority. Lawful authority may mean owning the land crossed by the public right of way or having the permission of the owner. The council should seek to clarify the situation in relation to the lawful authority being asserted.

7 ALTERNATIVE OPTIONS

- 7.1 Reject the application to divert public footpath E229 which would prevent the development, in its current form, from proceeding.

8 FINANCIAL IMPLICATIONS

- 8.1 There are no significant financial implications arising from the report.

9 LEGAL AND GOVERNANCE CONSIDERATIONS

9.1 Set out within the report.

10 DATA PROTECTION IMPLICATIONS

10.1 There are no significant data protection implications arising from the report.

11 EQUALITY IMPACT ASSESSMENT

11.1 An Equality impact Assessment has not been completed because the report does not propose a significant change to an existing policy or service provision.

12 COMMUNITY SAFETY IMPLICATIONS

12.1 There are no significant community safety implications arising from the report.

13 HEALTH AND WELLBEING IMPLICATIONS

13.1 There are no significant health and wellbeing implications arising from the report.

14 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

14.1 The overall effect of the proposed development / diversion on the local rights of way network is slightly negative, as despite meeting the required legal tests it seems to fall a little short when measured against both local and national guidance referenced above.

14.2 However, it's assumed that Planning and Licensing Committee considered these issues and deemed the proposals impact on the footpath (a material consideration) to be acceptable, having granted permission for the development. In which case an order for the diversion of the footpath should be made.

14.3 It's recommended that the width of the diverted section of the footpath be recorded as being the full extent of the shared surface. This will avoid any ambiguity about position of the footpath within the shared surface, and the increased width can be presented as public benefit further to ROWIP actions 2C & 4B.

14.4 It's also recommended that an agreement binding those exercising private vehicular rights to maintain the surface of the estate road / public footpath be required prior to confirmation of the diversion order.

15 BACKGROUND PAPERS

15.1 Set out within the report.

16 APPENDICES

16.1 Appendix A – Diversion application

16.2 Appendix B – Draft order map

16.3 Appendix C – Consultation

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

Appendix A. Application form



Rutland
County Council

FORM H257

Public Rights of Way (Highways)
Rutland County Council, Catmose
Oakham, Rutland LE15 6HP
Tel: 01572 722577
Email: rightsofway@rutland.gov.uk

Application for Stopping Up or Diversion of a Public Right of Way

TOWN AND COUNTRY PLANNING ACT 1990, Section 257

Please read the 'Applicant Guidance Notes' carefully before completing all sections of this form. The application form should be accompanied by (1) A map clearly showing the existing and alternative routes, ideally to a scale of 1:2500, (2) A letter of consent and accompanying plan showing the extent/interest of each affected landowner, occupier, lessee or other party affected by the proposal (where applicable, a plan showing and unidentified ownership should also be included), and (3) An environmental statement and other supporting documentation, where applicable.

CONTACT DETAILS

Applicant	Mr/Mrs/Miss/Ms/Other:		Full Name:	[REDACTED]
	Address:	[REDACTED]		
	Telephone:	[REDACTED]	Email:	[REDACTED]
Agent	Mr/Mrs/Miss/Ms/Other:		Full Name:	KATE WOOD
	Address:	EDISON'S THE LAWNS 33 THORPE ROAD PETERBOROUGH PE3 6AB		
	Telephone:	[REDACTED]	Email:	[REDACTED]

LAND OWNERSHIP

Are you the freehold owner and occupier of all the land affected by the diversion proposal? Yes No

If no, please list the names and addresses of all those who stand to be affected by the proposal, along with the nature of their interest in the affected land:

Name	Address	Interest



Give details of any land affected by the proposal for which the owner has not been identified (refer to plan):	
N/A	
Are you aware of the existence of any apparatus belonging to statutory undertakers in, on, over or across the land affected by the existing route(s)? If yes, please provide details:	
N/A	
PROPOSAL	
Status:	DIVERSION APPLICATION
Path reference:	ROUTE E229
Town/Parish:	KETTON
OS Grid Reference:	SK 980047
Annotating the proposal map accompanying this application, please give a detailed description of the new route in terms of its width, surface, proposed structures (gates/stiles etc) and any relevant topographic features.	
<p>THE PROPOSED NEW ROUTE FOR THE FOOTPATH FOLLOWS THE PRIVATE UNADOPTED ROAD THROUGH THE RESIDENTIAL DEVELOPMENT SITE. THE ROAD MEASURES 3.5 METRES AT ITS NARROWEST POINT AND WILL BE LAID TO TARMACADAM (AS IS THE SURFACE OF THE EXISTING ROUTE). THE PROPOSED NEW ROUTE IS THAT USED BY A MAJORITY OF USERS AT PRESENT. THE ENTRANCE/START OF THE FOOTPATH WHEN LEAVING THE HIGH STREET WILL REMAIN UNCHANGED, AS WILL THE EXIT POINT WHEN LEAVING THE DEVELOPMENT SITE. SEE PLAN HF-PR-PROV-02.</p>	
LEGISLATIVE TESTS	
An authority may by Order authorise the stopping up or diversion of a footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to take place [Sect on 257(1), Town and Country Planning Act 1990]. Please describe the nature of the development necessitating the stopping up/diversion.	
HOME FARM IN KETTON HAS BEEN GRANTED PLANNING CONSENT FOR A RESIDENTIAL DEVELOPMENT. THIS DIVERSION APPLICATION IS NECESSARY IN ORDER TO IMPLEMENT THE RESIDENTIAL DEVELOPMENT SCHEME.	
Please provide the planning reference for the development and the date of consent.	
2020/1254/MAF RESOLUTION TO GRANT PLANNING AT COMMITTEE MEETING HELD ON 11TH JANUARY 2022.	

COSTS

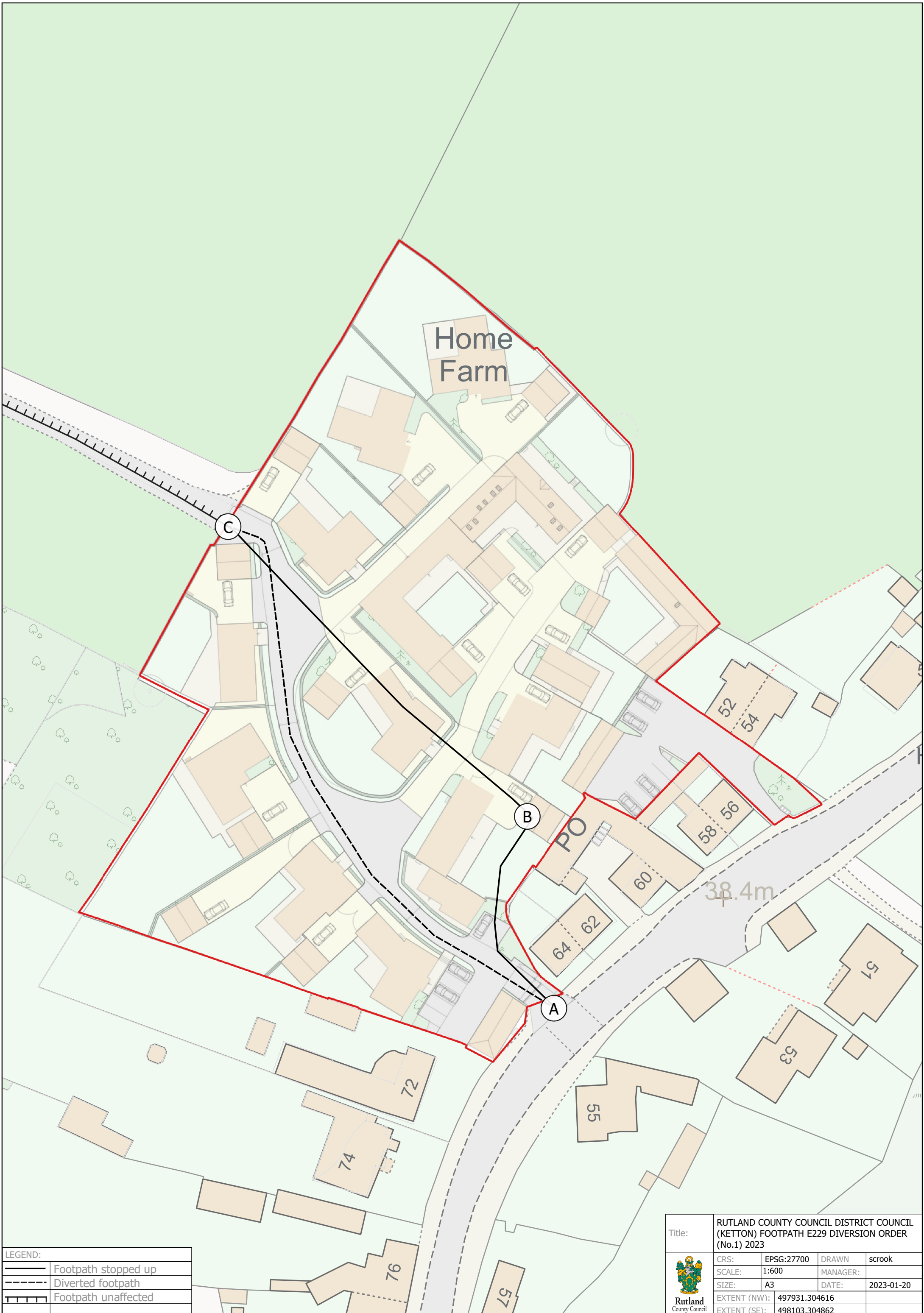
DIVERSION AT APPLICANTS COST

DECLARATION

1. I/We understand that no authority for the diversion of a public right of way is conferred unless:
 - a. The appropriate Order has been made and confirmed.
 - b. Any works necessary to bring the alternative route into operation have been certified as acceptable by Rutland County Council.
2. I/We have noted the costs which are payable for processing a Public Path Order application and agree to pay the charges outlined above when invoiced by Rutland County Council. I/We understand that in the event that objections are received, a proportion of the specified fee and the cost of the initial newspaper notice will still be payable in the event the Order is not confirmed.
3. In the case of a Public Path Diversion Order being confirmed pursuant to the application, I/We agree that Rutland County Council will not be liable for any compensation which may become payable to a third party and I/We agree to defray any such claim. I/We also waive my/our right to claim compensation under Highways Act 1980 Section 28.
4. I/We understand that the information provided on this form cannot be treated as confidential and that all supplied information may be made available to members of the public on request.
5. I/We hereby declare that the information provided in respect of this application is correct to the best of my/our knowledge.

Signature	
Print name	
Date of statement	01/02/22

Appendix B. Order plan



Home Farm

C

B

A

PO

38.4m

LEGEND:

	Footpath stopped up
	Diverted footpath
	Footpath unaffected

Title: RUTLAND COUNTY COUNCIL DISTRICT COUNCIL (KETTON) FOOTPATH E229 DIVERSION ORDER (No.1) 2023			
	CRS:	EPSG:27700	DRAWN: scrook
	SCALE:	1:600	MANAGER:
	SIZE:	A3	DATE: 2023-01-20
	EXTENT (NW):	497931.304616	
	EXTENT (SE):	498103.304862	

Appendix C. Consultation

Comments for Planning Application 2020/1254/MAF

Application Summary

Application Number: 2020/1254/MAF

Address: Home Farm High Street Ketton Rutland

Proposal: Demolition of Existing Modern Buildings, Conversion and Extension of Barns to 6 no. Dwellings and 2 no. offices, Erection of 9 no. Dwellings, and Alteration to Access.

Case Officer: Andrew Waskett-Burt

Customer Details

Name: Mr Mark Homer

Address: 72 High Street, Ketton Stamford

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Andrew,

Objection to application ref. 2020/1254/MAF - Home Farm, High Street, Ketton, Rutland

We do not object to the principle of the proposed development in general, However, we have serious concerns about the design and layout of the scheme and potential impacts upon highway safety and the character and appearance of the conservation area.

This letter sets out a number of issues that we have identified with the proposed development. We have also set out recommendations as to how these issues should be addressed through amended plans.

Access arrangements

Whilst the proposed 4.8m main access may be technically acceptable to allow two vehicles to pass at low speeds this limited width leaves little space for wider vehicles to use the access. Given the ever greater reliance on commercial deliveries of comparison goods and groceries as a result of the Covid-19 pandemic there is the potential for conflict to arise when wider delivery vehicles use the main access if another vehicle is coming in the opposite direction. The provision of a 1m strip for pedestrians, which is narrow for a footway, means that where two vehicles pass each other at the access one of them may need to mount the footway.

The Transport Statement and submitted plans indicate the visibility splays for vehicles leaving the site but do not adequately assess the impact on the High Street of vehicles manoeuvring to enter the main access. The cart shed and boundary wall of 64 High Street would restrict distance views of vehicles leaving the site. Moreover, with customers of the Post office and Village Stores parking near to the main access this further reduces the limited visibility for vehicles entering the site. This

could result in vehicles entering the site having to brake sharply if they have not had sight of a vehicles leaving the site. Again, the narrow width of the access and the increasing reliance on wider delivery vehicles would potentially exacerbate this issue. Given the existing pressures on parking in this part of the High Street, as a result of customer parking for the Post Office and Village Stores, there is a potential impact upon the safety of highway users. Especially pedestrians using the footpath near to the site access. If pedestrians were forced to walk round cars waiting to enter the site, whilst another one leaves, then this would put them at risk. The constrained width of the main access should therefore be considered in detail by the Local Highway Authority (LHA). If it is considered to be unacceptable then alternative access arrangements should be proposed.

Internal layout

With the proposed commercial building adjacent to the main access there is the potential for conflict between users of the rear parking court and traffic entering the site. Once drivers have entered the site they would immediately be confronted by the parking court for the commercial unit on their left and the parking for Plot 1 on their right. Any vehicles manoeuvring into or out of these parking areas would impede vehicles entering the site. This could result in vehicles having to wait on the High Street to enter the site. Given the limited visibility from the High Street for vehicles entering the site they could end up having to pull off the carriageway and straddle the footpath until the access clears.

The constrained access arrangements of the main access would create an environment dominated by vehicular movements, which would discourage pedestrian and cycle use. Whilst the main access includes a short section of 1m wide footway the internal roads within the site do not include footpaths. This appears to be as a result of comments from the Council's Urban Design Officer that "a tighter street with shared surfaces is welcome as this fits with the local urban form of the most historic parts of the village." (Planning, Design and Access Statement, page 3). The Transport Statement references the roadway of Redmile's Lane, Ketton as justification for the narrowing of the roadways within the site. However, the proposed development differs from Redmile's Lane, which is only at its narrowest as the number of properties served off it are reduced. Moreover, there is a footway on the first part of the Redmile's Lane where there is a higher density of properties.

In contrast with Redmile's Lane the proposed development immediately narrows the internal roadway between Plot 1 and Plot 9 to 3.5m. Paragraph 7.2.3 of the Manual for Streets identifies the need to limit narrowing of roadways and states "widths between 2.75 m and 3.25 m should be avoided in most cases, since they could result in drivers trying to squeeze past cyclists." The provision of stretches of 3.5m roadway would only allow an additional 25cm space for vehicles to pass pedestrians and cyclists.

The lengths of the 3.5m roadways would mean that some drivers inevitably try to squeeze past pedestrians and cyclists, especially delivery drivers with wider vehicles who may be more restricted on time. This would create an environment where travel by foot and cycle is considered less safe than being in a car. Such an environment would result in a higher car usage amongst residents, which would put further pressure on the constrained access and exacerbate the

aforementioned potential impacts upon highway safety.

Both the Planning, Design and Access Statement and the Transport Statement confirm that the site is a sustainable location that is within walking and cycling distances of facilities within the village, namely shops (30m), play area (300m) the primary school (300m) and the Ketton Sports and Community Centre (900m). The proximity of the site to the primary school and the offer of family housing will make the site attractive to young families. However, if parents feel that the environment within the site is not safe for their children to walk or cycle then they are likely to drive them to school and other facilities within the village. This would reduce the sustainability benefits of the site's location.

An environment that discourages sustainable travel by making pedestrians and cyclists feel unsafe means more reliance on the car. This means more cars per household and subsequent pressures on parking. Whilst there is an overprovision of in-curtilage parking in some cases this parking is gated. Therefore, unless visitors are expected they would have to park on the roadway and/or grass verges. This would inevitably be the case for delivery drivers who are unlikely to park on customers' drives. Instead these drivers would most likely block the internal roadway creating a further danger to pedestrians and cyclists. The Planning, Design and Access Statement refers to the grassed verge "step off" points for pedestrians. However, as the roadways would not be offered for adoption by the LHA there are no guarantees that these verges would be retained or that controls would be in place to stop vehicles parking on them.

The main access includes part of the Hereward Way, a public footpath that runs through the site. This introduces pedestrians who would not be familiar with the proposed layout of the site. The potential conflict between these users and drivers accessing the site needs to be given due consideration. Shared surfaces can work in small scale residential schemes but with the shared surface also accommodating a public footpath this adds further users that may be at risk from vehicles trying to squeeze past them where the roadways narrow. This is especially the case for disabled, partially sighted and other vulnerable users who can find shared surfaces challenging to navigate.

The layout plan includes an access through to the land to the northwest. If this land were to subsequently be developed then the potential issues with the shared surface layout, narrowing of the roadway and constrained main access would be further exacerbated by increased volumes of vehicular traffic.

Waste collection arrangements

Drawing HF-PR-PL-01 Tracking Proposed Site Plan Showing Refuse Tracking shows that waste collection vehicles would have to reverse into or out of parts of the site to access all the dwellings. They would also have to carry out two three-point-turns within the site. This would result in significant disruption to highway users on bin collection days with waste collection vehicles blocking the narrow roadways. Moreover, waste collection vehicles reversing around the site

would put vulnerable users on foot or cycle at further risk.

The aim of narrowing the roadway appears to be lost with the provision of large areas of tarmac that are necessary for waste collection vehicles to manoeuvre within the site. These introduce further confusion for pedestrians, who are likely to take the most direct route across them and therefore may come into conflict with vehicular traffic.

The route through the site represents a confusing environment for all users that starts with a dedicated space for pedestrians at the entrance of the site, albeit at only 1m wide. Residents and public footpath users then enter an environment where the roadway narrows and they are forced into close proximity to vehicles before entering the heart of the site, which is defined by a large area of tarmac that they have to navigate. Finally, the roadway narrows again as it turns to the north. There is only limited visibility for drivers to check whether this section of roadway is clear of other users before entering the northern part of the site.

Impact upon the conservation area

The present views into the site from the High Street includes a view of the verdant south-eastern area. This view would be lost in favour of the hard surfacing of the parking court for the commercial unit and the proposed dwelling at Plot 9. The amenity value of this area is acknowledged in Paragraph 7.21 of the Heritage Impact Statement, which states:

"A small group near the site entrance includes an unmanaged conifer hedge and a Norway Maple. The maple is currently medium-sized and is visible in combination with the dovecot. In spite of its split /bifurcated trunk it has some degree of amenity value, but will ultimately become forest sized posing a risk to the listed dovecot."

This view accords with Paragraph 8.2 (Trees) of the Ketton Conservation Area Appraisal Review January 2020, which identifies that "Large mature trees are a particular feature of the conservation area contributing towards a verdant character." In addition to the Norway Maple (T12069) the south-eastern part of the site includes a Rowan (T0284) and Holly tree (T0285) that are also clearly visible from the High Street and would be lost as a result of the development.

Given that the Conservation Area Appraisal recognises the importance of mature trees in contributing towards a verdant character, and the amenity value that is attributed to the Norway Maple in particular, we would have expected greater consideration of the impact upon the character and appearance of the conservation area as a result of the loss of the aforementioned trees. This assessment should have been carried out alongside detailed landscaping plans that would demonstrate how the verdant character of this part of the conservation area would be preserved.

Both the Heritage Impact Statement and Arboricultural report refer to a scheme of landscaping. However, the application is not supported by one and Paragraph 11.23 of the Heritage Impact Statement states:

"As part of a holistic vision for the site, a philosophy and design rationale for a meaningful and robust landscape scheme will be developed as a reserved matter."

This is a full application and not an outline application that would be followed by reserved matters submissions. Therefore, sufficient details of the proposed landscaping should have been submitted to assess whether the loss of the mature trees within the site would be mitigated by "a meaningful and robust landscape scheme".

The landscaping of the development is integral to assessing the impact of the development and whether it would preserve or enhance the character of this part of the conservation area. This is not a matter that can be considered through a discharge of condition application.

Paragraph 7.22 of the Heritage Impact Statement states:

"Travelling south along the High Street the post office, cart shed, No.s 72, 74 and 55 form a pleasant cluster of stone buildings as one approaches the bend in the road. These buildings together with the previously identified non-designated heritage assets and stone boundary walls have a good degree of group value and provide a good sense of enclosure. This busier zone of higher density development is identified as forming an important view in the Conservation Area Appraisal document."

The introduction of a two-storey dwelling (Plot 9) to the rear of the cart shed would visually dominate the lower building on the High Street and detract from the group value of the "pleasant cluster of stone buildings" that is identified in paragraph 7.22. However, there is no discussion of how this impact would be mitigated through the design and layout of the development.

Impact upon amenity

The aforementioned issues with the constrained access would have the potential to result in greater vehicular movements in close proximity to the garden and habitable rooms of the bungalow at 64 High Street. Especially if vehicles would have to reverse to allow another vehicle to pass or enter the site. As a result of the proposed access arrangements, the development has the potential to impact negatively upon the amenity of the neighbour at 64 High Street.

Affordable Housing

Core Strategy Policy CS11 (Affordable housing) requires new residential development to deliver 35% affordable housing, unless a viability argument is made as to why this percentage, or lower, cannot be achieved. Sites allocated for housing in Policy SP2 (Sites for residential development) will include a proportion of the development to be provided as affordable housing in accordance with Policy CS11.

The Planning Policy Guidance (PPG) issued by the Government confirms that viability assessment should be subject to public disclosure where exceptional circumstances do not exist. The PPG states:

"Any viability assessment should be prepared on the basis that it will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made publicly available. Information used in viability assessment is not usually specific to that developer and thereby need not contain commercially sensitive data. In circumstances

where it is deemed that specific details of an assessment are commercially sensitive, the information should be aggregated in published viability assessments and executive summaries, and included as part of total costs figures." Paragraph: 021 Reference ID: 10-021-20190509
If the applicant has submitted a viability assessment, then we would like to understand the exceptional circumstances as to why it has not been made publicly available. If they have not submitted any evidence that the scheme would not be commercially viable with 35%, or lower, affordable housing, other than the brief comments in the Planning, Design and Access Statement, then the application should be refused for not complying with Policy CS11.

Conclusion

The application that has been submitted does not comply with Policy SP2 of the 'Rutland Site Allocations and Policies Development Plan Document 2014' as it does not include development in Use Class C3 only. Moreover, it does not comply with Policy CS11 of the 'Rutland Core Strategy Development Plan Document 2011' as no viability assessment appears to have been submitted to demonstrate why 35% affordable housing is not achievable.

Paragraph 122 of the National Planning Policy Framework 2019 identifies the importance of securing well-designed, attractive and healthy places. Based on the issues identified in this letter, the development would fail to meet the requirements of Paragraph 122 as it is not well-designed and would not encourage active transport by residents.

Paragraph 127 identifies that planning decisions should ensure that development are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and create places that are safe, inclusive and accessible and which promote health and well-being. Similarly, the development would fail to meet the requirements of Paragraph 127 as there are no detailed landscaping proposals and the layout would not create a place that is safe, inclusive and accessible and which promotes health and well-being.

The development would not accord with the requirements of Policy SP5 (Built development in the towns and villages) as it would adversely affect local amenity, and the character and appearance of the area. It would also be detrimental to features and spaces which contribute to the important character of the locality, namely the verdant area to the southeast of the site and the cluster of stone buildings identified in the Heritage Impact Assessment.

The development would not accord with the requirements of Policy SP15 (Design and amenity) as it would not provide for adequate landscaping, to preserve visual amenity, that is designed as an integral part of the layout. The development would result in the loss of trees that would detract from the visual amenity in the area, without any proposed mitigation. The design and location of the proposed main access would also have an unacceptable adverse impact on the highway network.

The development would not accord with the requirements of Policy SP20 (The historic environment) or Core Strategy Policy CS22 (The Historic & Cultural Environment) as it would not

Comments for Planning Application 2020/1254/MAF

Application Summary

Application Number: 2020/1254/MAF

Address: Home Farm High Street Ketton Rutland

Proposal: Demolition of Existing Modern Buildings, Conversion and Extension of Barns to 6 no. Dwellings and 2 no. offices, Erection of 9 no. Dwellings, and Alteration to Access.

Case Officer: Andrew Waskett-Burt

Customer Details

Name: Mr Graham Layne

Address: 13 Bartles Hollow Ketton Stamford

Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: Having read through the Planning Application documentation on the RCC website for the Home Farm Development I'd like to highlight the following concerns.

Housing Type

The application is for 6x5 bed, 5x4 bed, 3x3 bed & 1 x 1bed properties with no affordable/social housing. The survey carried out by the Neighbourhood Planning Group in 2020 found that the majority of villages considered that 1 - 3 bed houses were needed along with affordable/social housing was most needed. Although this is not policy it needs to be considered given the impact on the community. If the housing mix is approved will a levy be applied for affordable/social housing to be developed elsewhere in the village?

Flood Risk

The application indicates that there is no flood risk however the UK Gov flood warning information service (<https://flood-warning-information.service.gov.uk/>) shows that there is a high risk of surface water flooding through the site.

Traffic

The Transport Statement states that there will be c124 two way vehicle movements on and off the development once complete. The application also states that the access road to the site is wide enough for 2 vehicles to pass safely. I question if the access is wide enough for 2 vehicles except

for smaller city cars. This will therefore create restrictions to traffic flow on the High street at one of its narrowest/heavily used points. This is particularly concerning when larger vehicles need to access the development (Farm vehicles, refuse collection etc). Traffic flow also needs to be considered in parallel with the other developments on the High Street (2020/1263/MAF [CF] 2020/1262/MAF [TC]).

Traffic flow will also be impacted by pedestrians using the popular public footpath that runs through the site. This will increase during inclement weather and during the winter months as it is one of the few footpaths around the village that remains mostly mud free making it particularly popular for dog walkers

Parking

Parking allocation for the properties and businesses included in the development appears to be inadequate.given its location in the village. The application states that the roads will be of a lane type with no pavements. This will not allow for very limited on road/communal parking for visitors, who will therefore be very likely to park on the high street where parking is already a problem.

Comments for Planning Application 2020/1254/MAF

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Case Officer: Andrew Waskett-Burt

Customer Details

Name: Mr Michael Gillon

Address: 7 Chater Road, Oakham, Rutland LE15 6RY

Comment Details

Commenter Type: Amenity Group

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: As footpaths officer for the Rutland Ramblers (part of the national organisation - Ramblers UK), I have major concerns over the impact this proposed development will have for the Right of Way access that passes through it.

This is an important and extremely well-used footpath. It is popular with locals, and forms part of prestigious county and national long-distance walking routes - namely the Rutland Round and Hereward Way.

One concern is over the safety of walkers, and the potential for that to be compromised. The proposal to divert the existing public footpath (E229) and essentially construct a tarmac road over it will inevitably increase risk. I note the developer (Planning, Design and Access Statement) refers to walkers having '.....a pleasant environment to walk through, benefiting from natural surveillance and reduced traffic speeds' Would that really be the case?

My other major concern is about the quality of the footpath in the future, and the potential for walkers to enjoy using it. We should be taking every opportunity to enhance the 'open' and 'green' nature of our RoW network in Rutland; these proposals do not appear to do that. I cite the following in support of the walker's experience:

"In considering potential revisions to an existing RoW that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid use of estate roads for the purpose wherever possible, and preference should be given to the use of made up footpaths through landscaped or open space areas - away from vehicular

traffic." (DEFRA RoW Circular - 1/09)

".... must ensure the new development not only preserves but enhances the local RoW network. Existing paths ... should be improved by the dedication of additional width and/or higher rights. We believe that future developers should be required to enhance RoW affected by their proposals ... in anticipation of increased levels of use and raised expectations."
(Rutland County Council - RoW Improvement Plan - Action 4B)

"The existing green infrastructure network will be safeguarded, improved and enhanced (The Local Plan) promotes green infrastructure ... this can be achieved by resisting development resulting in the loss of green infrastructure, or harm to its use or enjoyment by the public."
(Rutland Local Plan - Policy RLP42)

Comments for Planning Application 2020/1254/MAF

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Case Officer: Andrew Waskett-Burt

Customer Details

Name: Mrs Sarah Ayling

Address: Ketton Parish Council, Parish Office Stocks Hill Lane, Ketton Stamford

Comment Details

Commenter Type: Parish Council

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Archaeology and site investigation reports 1 to 4, storm water calculations, exceedance flow diagrams and manhole detail - noted.

Plot 3 plans (revised) - no objections

Proposed site plan (revised) – objections.

Although the revision to Plot 8 boundary will improve the width of the road as it curves through the site, we were disappointed to note that there are still no plans for a continuous dedicated footway/pavement through the site. Users of the popular Public Right of Way (part of the Hereward Way) will still be sharing the route with vehicles, with few options of 'step off' points for refuge.

We have no objections to the plans for 'flush laid cobblestones' and the drainage channel at the site entrance, and the stone boulder at the corner of building 1. However, the white line on the road, across a widened entrance to the site, will remove the only parking spaces available for 78 High Street. Providing some parking within the development site for nearby residents with no off street parking options is essential in terms of safety, and lessening the impact of this development on the village as a whole.

Proposed site plan (revised) - objections.

We were very disappointed to note that it was not possible to provide parking for the 2 bungalows and the shop (and see comment above).

The use of a 2016 Dept for Transport traffic survey data to justify not repeating their traffic survey out of lock down and at times to include the 'school run' is not acceptable. The DfT data is 5 years out of date, and there is no indication as to where between Ketton and Tinwell the survey was carried out - it could be missing traffic that turns off at Steadfold Lane, which is a well used route to N Stamford from Ketton.

Drainage Strategy – objections

We refer to Anglian Water's comments from Nov 2020, section 4, with respect to surface water disposal plans for this site "The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to a sewer seen as the last option.....The environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse" We note that these proposals are for all surface water to drain into the main surface water/clean sewer which would take the water across the road and the field beyond, into Sinc Stream and thence into the R Chater, as based on the dye tracing exercise carried out. The dramatic effects of this dye tracing exercise on Sinc Stream and the Chater were observed by chance by several villagers, including parish councillors. The proposed surface water disposal system is unacceptable in terms of the possible detrimental effects on the water quality, and hence biodiversity, of Sinc Stream and the Chater.

Stuart Crook

From: Mary Cade <cade_mary@hotmail.com>
Sent: 19 January 2023 08:53
To: Stuart Crook
Cc: Ketton Council; Cllr Karen Payne; Cllr Gordon Brown; Sinclair Rogers
Subject: [EXTERNAL] Proposed diversion FP E229, Home Farm, Ketton

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Do NOT click on links or attachments unless you recognise the sender and know the content is safe.
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Dear Stuart

Thank you for contacting us about the Home Farm E229 footpath diversion.

We still have considerable concerns about the lack of a dedicated footway alongside the 'estate road' . The road way through the estate will effectively be replacing the foot path. Given that the footpath is very well used by people of all ages and physical abilities, and the inevitable parking of vehicles along the road (deliveries, visitors etc), footpath users' safety will be compromised. The original planning application explained that the lack of a dedicated footway would be mitigated by intermittent banked (as far as I can remember) verges for 'refuge' - not easy for those with less mobility to 'leap' onto!

Best wishes

Mary Cade

Ketton Parish Council Planning Committee

From: Stuart Crook <SCrook@rutland.gov.uk>
Sent: 16 January 2023 10:42
To: Ms S Ayling (kettonpc@btinternet.com) <kettonpc@btinternet.com>
Subject: Proposed diversion FP E229, Home Farm, Ketton

Morning Sarah,

I'm putting together a brief report on the diversion of the footpath required by the developers at Home Farm in Ketton.

The parish council made a comment regarding the public right of way when consulted by the Planning team (attached) which I will include in the report.

If there anything else that you would like me to add I would be grateful if you could let me have it before the end of the week (sorry for short notice).

Regards

Stuart Crook | Highways Asset Management and Policy Manager

Rutland County Council

Catmose, Oakham, Rutland LE15 7HP

t: 01572 758260 | f: 01572 758307

e: scrook@rutland.gov.uk | w: www.rutland.gov.uk

If my email finds you outside of your normal working hours, please feel free to read, act on or respond at a time that works for you.

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