

HORTON HEATH DEVELOPMENT MANAGEMENT COMMITTEE

Monday, 26 September 2022

RIGHTS OF WAY DIVERSION REPORT

Report of the Senior Engineering Specialist

Recommendation

It is recommended that authorisation be given for the consultation on and processing of an Order under Section 257 of the Town and Country Planning Act 1990 for the diversion of Public Footpath Fair Oak No's 11, 701 & 702 as it is necessary to do so in order to enable development to be carried out. (Ref: No F/21/91185).

Summary

Development is subject to planning permission being granted (planning application No. F/21/91185) on land crossed by a Public Right Of Way (PROW). A Public Footpath Diversion Order is necessary in order to enable development to be carried out, to divert part of the footpath on an alternative alignment, where affected by the development and associated works.

Statutory Powers

Section 257, Town and Country Planning Act 1990.

Strategic Implications

1. The diversion of these rights of way as part of the development helps meet the following corporate objectives
 - a) Developing green infrastructure,
 - b) Excellent environment for all,
 - c) Enabling healthier lifestyles/well-being.

Introduction

2. A planning application has been made under application No. F/21/91185 for a new link road and associated drainage features between Allington Lane and Burnetts Lane Horton Heath Eastleigh. Some of the proposed development scheme is over the route of the existing Fair Oak PROW No 11, 701 & 702 footpaths. Realignment of some routes are therefore necessary to enable the development to be carried out.

Procedure for Stopping up and Diversion of Public Paths

3. The procedure has been enabled under Section 257 of the 1990 Town and Country Planning Act and enables an order stopping up or diverting a public path to be made where the route is affected by development. This legal process is undertaken by the Legal Services Manager.

Consultation

4. A planning application has been made for the development in the knowledge that a public footpath diversion order will be needed as shown on the attached drawing. Consultations with The Ramblers Association, local Councillors and Hampshire County Council's Rights of Way Section will be undertaken as part of the procedure involved in making the Order. If the Link road is granted permission notices for the changes to the rights of way, will also be posted on site to inform users of the proposed changes.
5. There have been so far no objections made to the proposed development on the grounds of it affecting public rights of way that cannot be overcome by providing an alternative diverted route.

Financial Implications

6. There will be costs for the Council, however the project budget will be required to meet the full costs of legal and administrative work by the Legal Services Manager and Lead Specialist- Environment, together with advertising costs and construction costs.

Risk Assessment

7. The risk is considered to be low as the order has been advertised and any objections will be considered before the order is taken forward.

Equality and Diversity Implications

8. An equalities impact assessment has not been carried out because the report does not contain proposals for significant changes to existing services, policies or strategies and does not introduce any new services, policies or strategies. The points of change to the rights of ways are to ensure that the routes have safe crossing facilities where they meet the proposed link road, however this does not make the existing rights of way any more or less accessible to people with mobility impairments than they are currently.

Climate Change and Environmental Implications

9. The proposals to realign the right of way and ensure they continue to be available to the public, help to protect the environment by allowing better management of the surface water through the creation of balancing ponds promoting environmental resilience during flooding and severe weather events whilst still providing access.

Conclusion

10. A detailed planning application has been made for development and this affects Fair Oak PROW No 11, 701 & 702 footpaths. Authorisation to carry out a consultation on the making of an Order to divert the public footpath (as shown on the attached drawing) under Section 257 of the Town and Country Planning Act 1990 is required.

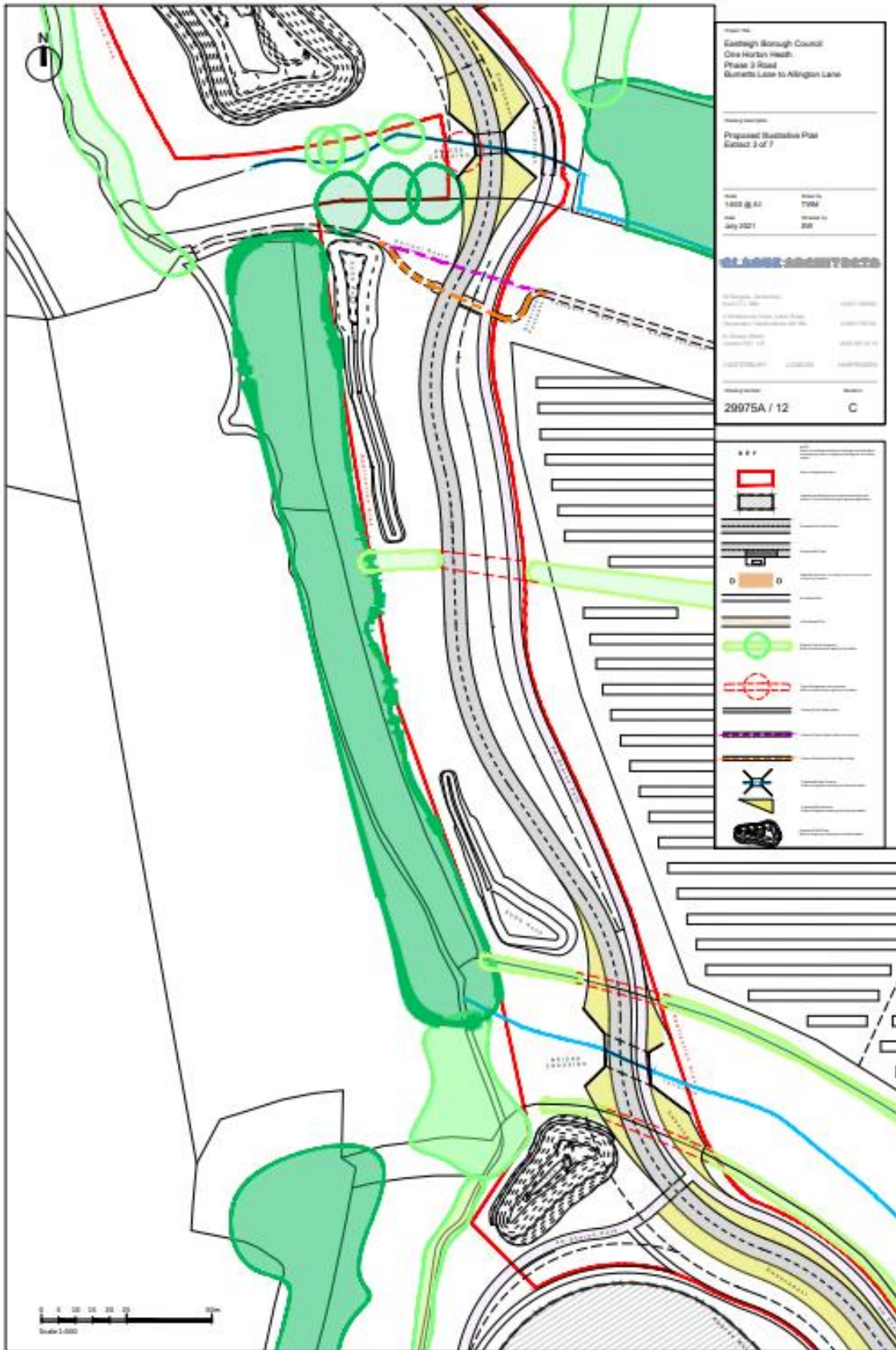
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Appendices Attached: 3

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

* List Background Papers or state None.



Appendix 2 PROW No 701

