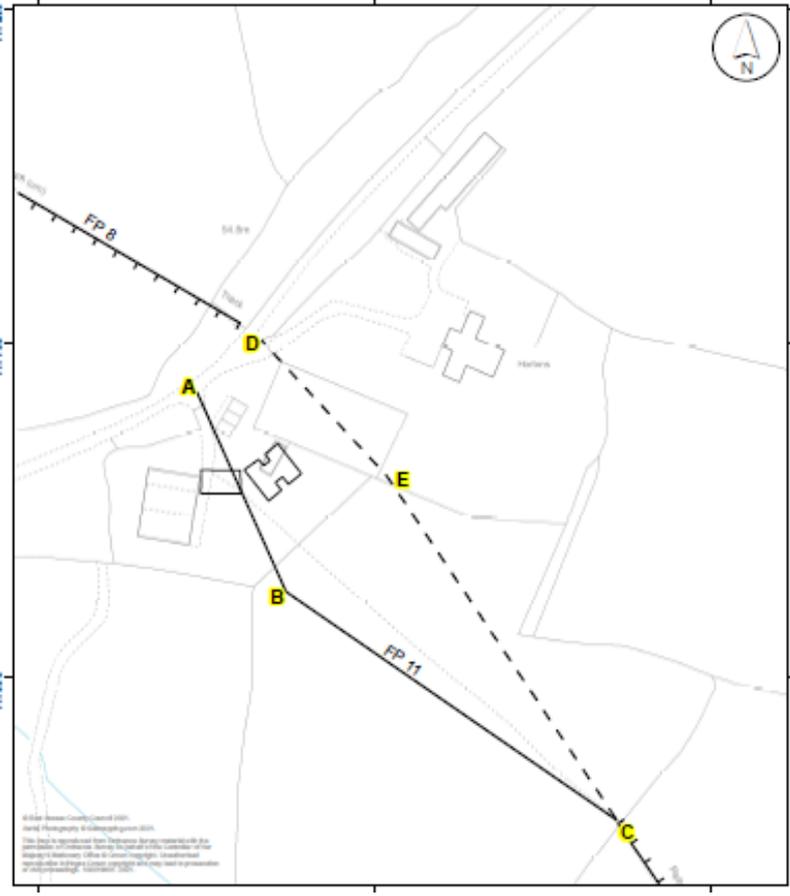


Report to: Planning Applications Committee
Date: 9 June 2021
Application No: LW/19/0589
Location: Hortons, Hemsleys Lane, Streat, East Sussex, BN6 8SB
Proposal: Application for Diversion of Public Footpath 11 Hortons under Section 257 Town and Country Planning Act 1990.
Ward: Plumpton, Streat, East Chiltington and St John Without
Recommendation: That the Director of Regeneration and Planning be granted delegated authority to make and confirm:
A) Diversion Order relating to part of Public Footpath 11
B) To carry out all legal steps required to publicise and consult on the Order and,
C) Subject to no objections being received or any objection received having been withdrawn, to make and confirm the Order and to publicise it as required by the legislation.
D) To make minor modifications to the Draft Order, or to re-make and confirm the Order with minor modifications if required.

Contact Officer: **Name:** James Smith
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IMPORTANT NOTE: This scheme is not CIL Liable.
Map Location:



Executive Summary

- 1.1 The diversion of public footpath 11 is necessary to enable the development approved under LW/19/0589 (as amended by LW/20/0532) to be carried out as the footpath crosses what would become the curtilage of that dwelling.
- 1.2 It is considered the diversion would not impede upon access and wayfinding and would not undermine the existing character of the footpath to a harmful degree.

2. Relevant Planning Policies

- 2.1 Not applicable.

3. Site Description

- 3.1 The current footpath (A-B-C on the attached plan) crosses through a yard area where a large metal framed barn and two smaller brick/stone walled stable buildings as well as a hard-surfaced area. Behind the yard area is a pasture field, which the footpath crosses, beyond which is low lying open countryside over which views towards the South Downs are afforded.
- 3.2 Planning permission was granted under LW/19/0589 for the demolition of the above-mentioned buildings and the construction of a new detached dwelling with ancillary garage building.
- 3.3 The route of the proposed diversion (D-E-C on the attached plan) crosses a defunct sand school area and then into the pasture field mentioned above.
- 3.4 The overall character of the surrounding area is strongly rural, with buildings being rare and sporadically distributed (although general directly adjacent to roads and lanes. The overriding characteristic is that of a mosaic of hedgerow enclosed fields and woodland. The surrounding countryside is criss-crossed by a number of public footpaths.

4. Relevant Planning History

- 4.1 **LW/19/0589** - Removal of Barn, Stable and Cowshed for the provision of a 4-bed detached house with double garage – Approved Conditionally 20th February 2020
- 4.2 **LW/20/0532** - Variation of condition 1 of application LW/19/0589 to amend approved drawings in terms of washing/bathing and secure storage for garden maintenance equipment – Approved 19th November 2020

5. Proposed Development

- 5.1 The entry to public footpath 11 from the eastern side of Hemsleys Lane would be moved approx. 25 metres to the north-east where it would be

directly opposite the point where public footpath 8 emerges onto the western side of Hemsleys Lane. The realigned path would head in a south-easterly direction, crossing an area currently in use as a sand school then crossing a pasture field to the immediate rear of the dwelling site (which is also crossed by the existing footpath) after which it would continue on its existing course.

5.2 The existing sand school, which the footpath would be crossed, is defunct and would be returned to grassland. The new footpath would be 4 metres in width. Where passes between the curtilage of the existing dwelling at Hortons and the dwelling approved under LW/20/0532, the path would be flanked by timber post and rail fencing to the eastern side and fencing to be agreed by condition on the western side. A new 4 metre wide opening will be created at Point D and a new field gate provided at Point E.

5.3 A new oak fingerpost would be provided to identify the new route.

6. Consultations

6.1 Prior consultation has been carried out by writing to statutory consultees including the ESCC Rights of Way Team on an informal basis. This process was delayed by the lockdown restrictions which prevented a number of the consultees being able to carry out a site visit until recently. Some initial objections to the proposal were received, but the Council are seeking to resolve these prior to the Order being made. The proposed diversion as set out in the Draft Order is supported by ESCC Rights of Way Team.

6.2 If the Committee authorises the making of an Order, it is a requirement of the Act that there will then be a statutory notice of making the Order by way of publication in a local newspaper, displaying notice and a map at the end of the existing pathway and at the Council Offices and by serving a notice with a copy of the Order and the map on the owners, occupiers and statutory consultees. There must then be a 28- day period before the notice can be confirmed. If there are no objections then the Order can be confirmed. If the Order is opposed and the objections cannot be resolved then the Order would need to be submitted to the Secretary of State for determination. The prior consultation which has already been carried out is not a statutory requirement but is undertaken to ascertain and, if possible, resolve any objections before making the Order and carrying out the statutory advertisements.

7. Neighbour Representations

7.1 Not applicable.

8. Appraisal

8.1 Principle

8.1.1 The principle of the footpath diversion was established following the approval, by planning committee members, of the original planning application LW/19/0589.

8.2 Impact of the proposal on the surrounding area:

8.2.1 The diverted footpath would have a grass surface, consistent with the surrounding rural environment, would be accessed via field gates, again consistent with the rural environment, and would not require any extensive fencing, with this being restricted to the parts of the path passing the existing and approved dwelling and not extending into any open fields. It is therefore considered that the realigned path would not compromise the established character of the surrounding area.

8.2.2 The path would pass between two residential properties (including the dwelling approved under LW/19/0589) but would not be immediately adjacent to the dwellings, both of which are set in fairly large grounds. Boundary treatment would provide an adequate buffer to the path which would not be likely to be used intensively. As such, it is considered that the realigned path would not result in any harmful impact upon residential amenity.

8.2.3 The new course of the footpath does not cross any ecologically sensitive areas and, given the retention of the grass surface, the restoration of the sand school to grassland and the relatively low traffic expected on the path, it is not considered that any unacceptable ecological impact would arise.

8.3 Design

8.3.1 The orientation of the diverted footpath would be similar to that of the existing path, ensuring the wide ranging views to the south, where the land level falls gently over fields and woodland before rising over the South Downs approx. 1.5km to the south, would be retained. Where the path passes the existing and approved dwellings it would be flanked by boundary fencing but this would be post and rail on one side, in keeping with the rural setting, and the 4 metre width of the path would prevent any unacceptable sense of overbearing. In any case, only a short section of footpath would be flanked by fencing with the remainder crossing an existing pasture field. This field is crossed by the existing footpath albeit on a different trajectory.

8.3.2 The 4 metre width of the path would allow for freedom of access and ample room for walkers to pass one another. From a wayfinding perspective, the repositioning of the entrance to the path directly opposite public footpath 8 is likely to result in it being more easily located. There is an element of confusion when approaching the existing path as it passes through an agricultural yard where there are a number of buildings present. A new oak fingerpost would be provided to draw attention to the new route.

9. **Recommendation**

9.1 It is recommended that the Director of Regeneration and Planning is authorised delegated authority to make and confirm:

A) Diversion Order relating to part of Public Footpath 11

B) To carry out all legal steps required to publicise and consult on the Order and,

C) Subject to no objections being received or any objection received having been withdrawn, to make and confirm the Order and to publicise it as required by the legislation.

D) To make minor modifications to the Draft Order, or to re-make and confirm the Order with minor modifications if required.

10. **Background Papers**

10.1 Draft Order.