

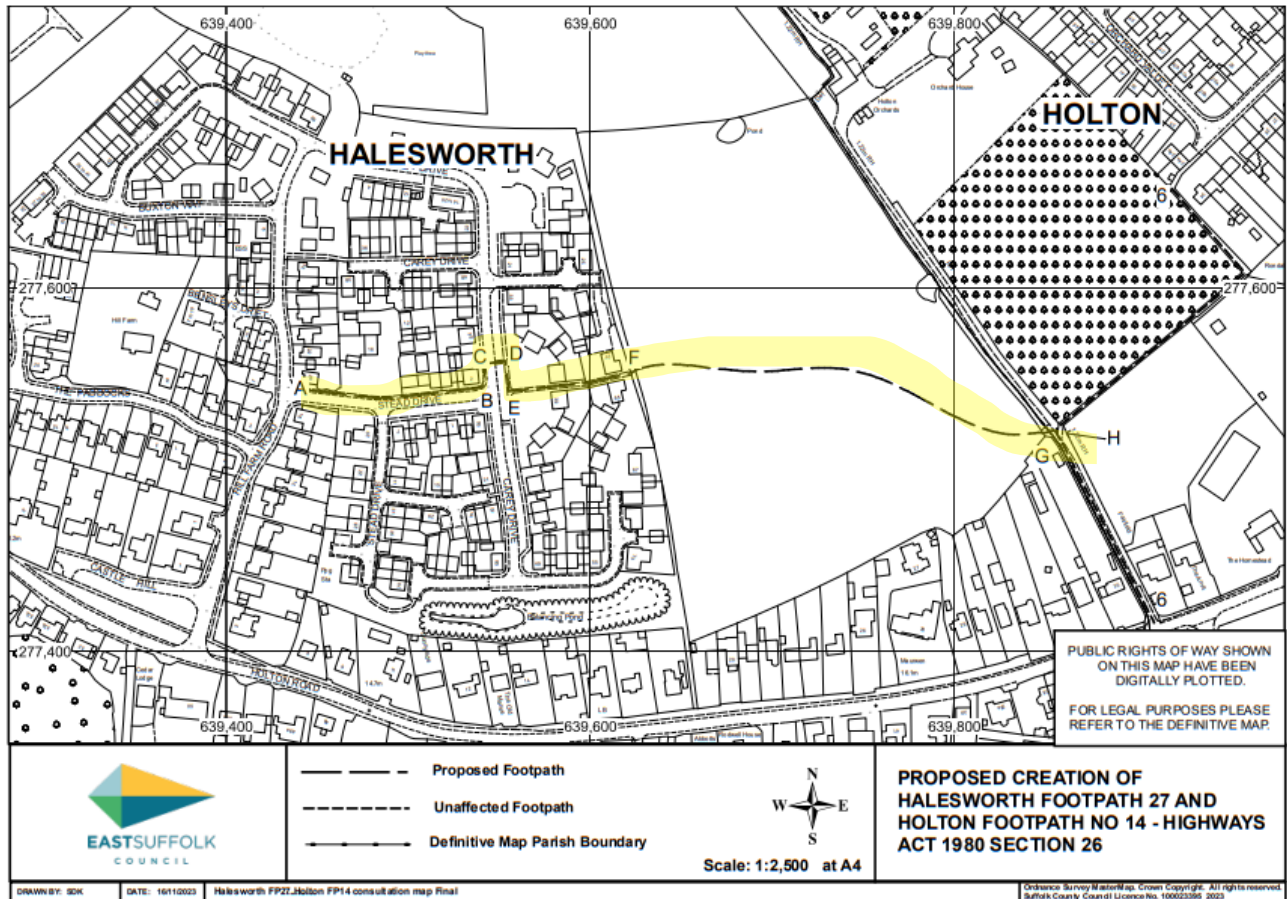


**Committee Report**  
**Planning Committee (North) – 12 March 2024**

**DC/24/0754/CON - Proposed Creation of a Public Footpath (Halesworth No 27 & Holton No 14)**

**Highways Act 1980 Section 26**

**Parish** Halesworth and Holton  
**Applicant** Philip Ridley, Head of Planning and Coastal Management,  
East Suffolk Council  
**Case Officer** Nicola Biddall, Public Path Orders Officer  
01394 444508  
[Nicola.Biddall@eastsoffolk.gov.uk](mailto:Nicola.Biddall@eastsoffolk.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 A. The creation of this proposed public footpath involves two areas of private land ownership, one is a development site and its public open space and one is an adjacent landowner. It also involves a small area of unregistered land. This proposal has been subject to an initial consultation process and this report contains the outcomes of that consultation.

## 2. Background

- 2.1. East Suffolk Council is proposing to create a new 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 development area of Halesworth to Orchard Valley, Holton. From that point there are onward routes to Holton St Peter Primary School, a new Nursery and the Village Hall. It will also aid the cohesion of existing and new communities and increase access to new public open space for the existing community.
- 2.2. This follows the granting of Outline Planning Permission, DC/16/5410/OUT on 7<sup>th</sup> March 2018 for a residential development of up to 160 dwellings. This also included the provision of a new meadow, additional site wide open space and landscaping and play area, land to enable an extension to the existing cemetery and vehicular accesses off Hill Farm Road. Reserved Matters approval for the detailed design of the development was granted on 9<sup>th</sup> October 2018 (DC/18/1281/ARM).
- 2.3. That development, built by Hopkins Homes, is now close to its completion. The development included a substantial amount of natural public open space with play area which is also close to being completed. The outline planning permission did recognise that the development would include *'informal footpath links'* directly onto the adjacent footpath No. 6. This was included on the approved 'Access Strategy Plan'. The submitted Design and Access Statement stated that the proposal included the statement *"The provision of an ecologically enhanced and managed meadow with opportunities for public access through defined paths linking to existing rights of way"*.
- 2.4. In listing the amendments made to the application after a pre-application public consultation, the Design and Access Statement stated *"improved linkages to existing footpaths"* as one of the amendments. The Travel Plan submitted with the application recognised that *"The potential issues and barriers to the promotion of sustainable travel in association with the site and its locality have been identified as follows:"*, this then included *"Quality of footway / path routes to school in Holton"*. That Travel Plan also included a plan showing informal path connections linking with footpath No. 6.
- 2.5. In consideration of the application, Suffolk County Council Highway Authority made a request initially for improvements to the footway on Holton Road, recognising that *"The existing footway links from the site to Halesworth and Holton are narrow"*. They then went on to seek mitigation through a range of public right of way improvements, including surfacing improvements, to be secured with Section 106 funding. Included in those was the proposal for *"Holton FP6 - a direct link to Holton Primary School and The Street – 190m of unsealed surface plus improvements to sealed surface at Orchard Valley - £7125 +*

£5000". Eventually these improvements were not secured through the Section 106 agreement, but they were instead funded through a later commitment of Community Infrastructure Levy (CIL) funding to an equivalent amount. Most of the works to footpath No. 6 were later delivered by the County Council, through CIL funding in 2022.

- 2.6. When it came to the approval of Reserved Matters in 2018, the Landscape Strategy and Soft Landscape Proposals plan both showed a path connecting across to footpath No. 6. The Planning Committee report for that application stated *"There are two existing access points from Hill Farm Road, one between 18 and 20 Hill Farm Road where there is an existing road stub and one at the northern end of Hill Farm Road, between 32 Hill Farm Road and 2 Bensleys Drift. Both are shown as being used. Footpaths shown both within the open space and joining existing footpaths at the northern end of the site close to Town Farm and in the south east corner at the access to Orchards Farm are not exactly as per the indicative plan at outline stage, but the routes are preserved."*
- 2.7. It is therefore clear that there was intent to deliver this connection to footpath No. 6 as part of the developer's proposal, there was clear expectation from the Highway Authority that it would be provided and recognition that it was to be achieved as a result of development by the Local Planning Authority in granting planning permission.
- 2.8. Unfortunately, at both the time of granting outline planning permission and reserved matters approval, it had not been recognised that the developer did not own all the land that would need to be crossed to achieve the footpath No. 6 connection they had indicated. Had this been recognised at the time of the outline planning permission, then securing the condition could have been made a requirement of the consent. There is instead a very short strip of land, which is a combination of unregistered land and land owned by the adjacent landowner, between the development site boundary and Holton footpath No. 6.
- 2.9. This shortfall was recognised by the Local Planning Authority in 2022 around the time of completion of CIL funded improvement works to footpath No. 6, which exposed this disconnect. It was at that point that the Council recognised proactive steps would need to be taken to address this shortfall. As a result of progress made with the Hopkins development site, the available resource within the Council for this purpose and the timely importance of this connection, this proposed public path creation order can now be progressed.
- 2.10. This footpath will provide a direct link from the existing public highway boundary on the new road 'Stead Drive', through the Public Open Space to the east of the Blyth Vale development to connect with Holton Footpath No. 6, which connects to Holton Road and Orchard Valley. This provides onward connection to Holton St Peter Primary School, including its new 30 place nursery. It also provides improved access to the Holton village hall and to other countryside spaces such as the now community owned 'Holton Pits'.
- 2.11. The alternative to this route involves either a longer walking route down Hill Farm Road, along Holton Road and then up footpath No. 6 to meet the junction this proposal would connect to. This route is less direct, less legible and not as attractive for users. The other alternative route, particularly to reach the primary school, involves continuing along Holton Road and on to The Street, Holton. This involves a walk of approximately 220 metres where there is no footway or refuge from passing vehicles. Some primary school

children and parents already use this route and it is likely that there will be a large number of pupils at Holton St Peter Primary School (and nursery) living on the Blyth Vale development.

- 2.12. 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)
- 2.13. ‘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))
- 2.14. 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)
- 2.15. The East Suffolk Cycling and Walking Strategy (adopted 4<sup>th</sup> October 2022) includes recommendations related to the Halesworth and Holton Healthy Neighbourhood. Included in those is recommendation 9: “9 - *Introduce walking connections between the open space route of the Hill Farm Road development onto Footpath 6, to allow safe off-road access*”. This Strategy also recognises wider improvement, such as to the north of the development across to Loam Pit Lane. This could include a connection through the new Cemetery land transferred to East Suffolk ownership, completing a wider off-road walking network. [East-Suffolk-Cycling-and-Walking-Strategy.pdf \(eastsoffolk.gov.uk\)](#) page 206.
- 2.16. 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. Th is not applicable, as this route is no longer agricultural land.
- 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

An consultation was carried out between 16<sup>th</sup> November and 15<sup>th</sup> December 2023. The consultation letter and response form are provided in Appendix B.

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
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.		

### Third party comments

- 4.1. One hundred and forty residents of the new Blyth Vale development received hand delivered letters and three adjacent landowners were sent an informal consultation letter. The letter, response form and plan are provided in Appendix A and B.
- 4.2. Five objections to the proposed path were received. This includes two objections associated with land ownership of land over which the path is proposed.
- 4.3. 42 responses in support of the proposed path were received.
- 4.4. One response made points both in support and objection.
- 4.5. **Summarised range of reasons for objection:**
- the terminology 'track' is not the case, it is in fact our tarmac roadway serving our property and House, and our business of touring caravan park.
  - Conflict with vehicle movements associated with the Caravan Park. Near misses have occurred.
  - The creation of this path on and over our roadway is fraught with danger with vehicle movement on a blind bend.
  - Holton Primary school is not the catchment area for Hill Farm Road.
  - Hopkins Homes illegally tore down our fencing and hedging exposing access to our property.
  - Pedestrians have been trespassing and causing damage to reach Footpath No. 6.
  - No mention of compensation has led us to object to this proposal.
  - 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.
  - 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.
  - the footpath has been 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 incite vandalism and invite trespass to Holton Orchards property.

- It has created animosity from public towards the rightful landowner for protecting their 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.
- I object to the above proposal for the following reasons: possible youths using pathway and increasing the risk of crime.
- What does 'proposed' mean as the said footpath is already complete? It is not 'proposed' - it has been there several months.
- 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 packets, etc) which were never a problem before.
- I was never advised of the footpath either by council or Hopkins.
- It would be very dangerous for children to run into the farm drive.
- 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. This unfortunately it appears to be getting worse since the new footpath situation has arisen.
- 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. this could be extremely dangerous if emergency vehicles were ever needed.
- 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.

#### 4.6. **Summarised range of reasons for support:**

- 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.
- the idea of a footpath across the newly designated green area is very appealing and I would make use of it.
- 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.

## 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 A and B. Six objections were received and 42 responses giving positive support for the proposal. As evidenced through the history of this desired route and its intended purpose with the development, there is a need for it.

### 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.*

### 5.3. 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

*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;*

### 5.4. In considering this, the content of objection received are addressed below.

### 5.5. Objections have been received from the owner of part of the land affected by the proposal. There is a narrow strip of land between the development and Objecting affected owner'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 road owned by the objecting owner 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.

### 5.6. A site meeting was held with the objecting owner on 14 June 2023 and meeting notes were emailed to them on 28 June 2023. See Appendix C. 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.

- 5.7. 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.
- 5.8. Photos are attached in Appendix D 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.
- 5.9. 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 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 D. 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 existing alignment of Holton footpath No. 6.
- 5.10. 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. It is recognised that the surfaced path created on the public open space gives a visual impression that there is an onward route and this is an unfortunate consequence of the timing of events.
- 5.11. Other objectors do not own land directly affected by the creation proposal so would not be entitled to compensation.
- 5.12. One objector cites possible youths using pathway increasing the risk of crime. 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. The extent of route to be created which adds any public access will be approximately 5 metres in length. The public are free to access the existing public right of way, and the almost adjacent public open space. The ability to pass through would have no influence on any increased risk of crime. However, this is not a matter that impacts on the legal tests.
- 5.13. Objections cite nuisance from dogs and litter. As mentioned above, the vast majority of the proposed path is already public open space and footpath No. 6 already runs adjacent to

property boundaries. 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 and the increased population from the already consented and constructed development. Again, this is not something that impacts on the legal tests to be considered.

- 5.14. Objections cite concern with the process being followed. 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. 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.

## **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 be determined by 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.
- 7.3. For the implementation of any physical works to deliver this public footpath, a CIL funding commitment to improve Public Rights of Way in this area (and previously used for improvements to footpath No. 6) is available. To date £27,301 of a total available fund of £56,002 has been spent. Available CIL funds committed to improve the rights of way network around this development could be utilised for these administrative, compensatory and construction costs.

## **8. Conclusion**

- 8.1. 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 the Planning Committee 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

- A. Plan showing proposed creation of Halesworth Footpath 27 and Holton Footpath No 14.
- B. Informal response form and consultation letter.
- C. Site Meeting Notes. 14.06.23
- D. Photographs

## Background information

Public path order proposal and consultation.

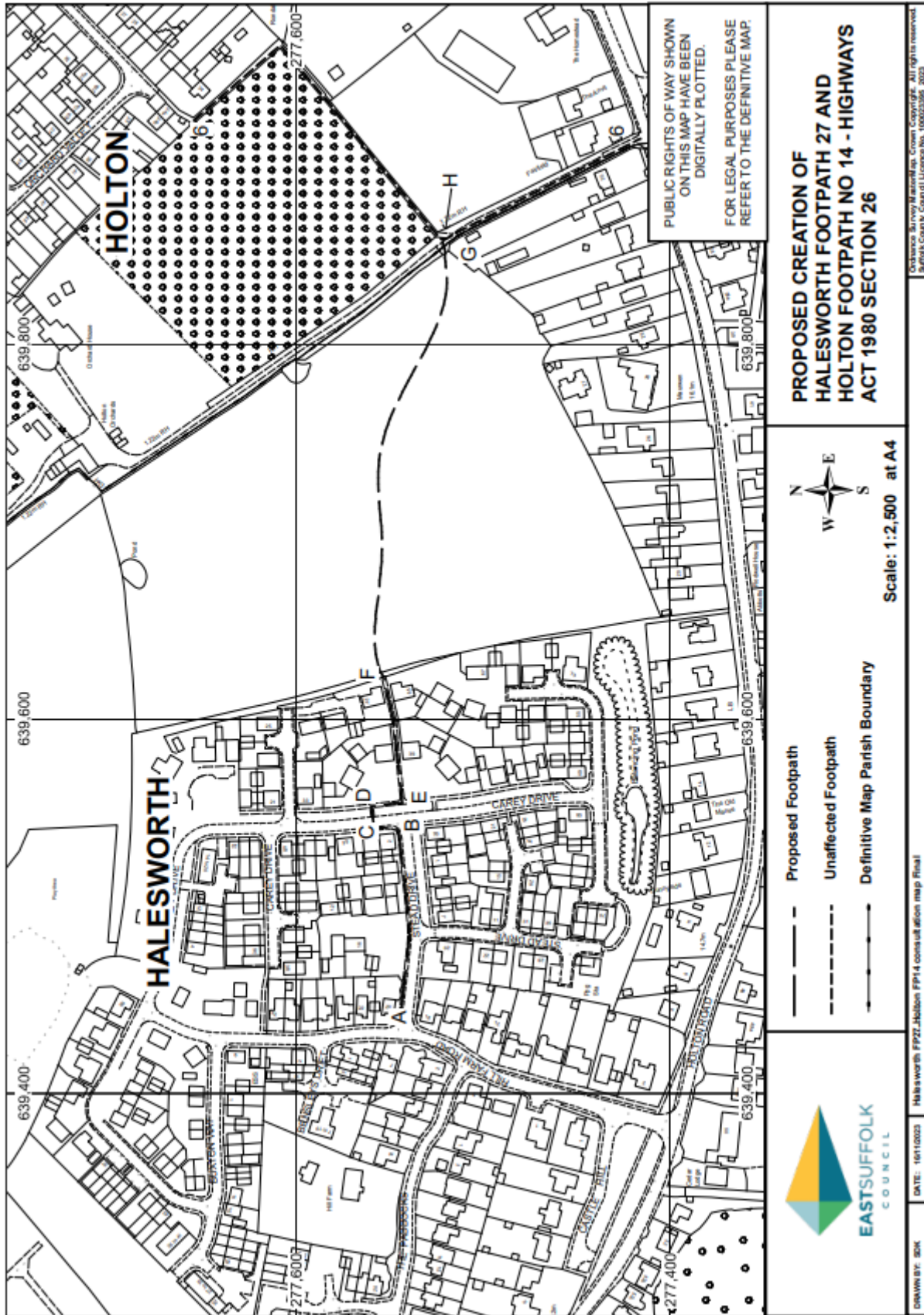
[DC/24/0754/CON | Proposed Creation of a Public Footpath \(Halesworth No 27 & Holton No 14\) | Land North And East Of Hill Farm Road Halesworth Suffolk \(eastsuffolk.gov.uk\)](#)

Outline Planning application for Blyth Vale: [DC/16/5410/OUT | Outline Application \(with all matters other than means of access reserved\) for 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 | Land North And East Of Hill Farm Road Halesworth Suffolk \(eastsuffolk.gov.uk\)](#)

Reserved Matters application for Blyth Vale: [DC/18/1281/ARM | Approval of Reserved Matters of DC/16/5410/OUT - Outline Application \(with all matters other than means of access reserved\) for 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 - Submission of details of appearance, landscaping, layout and scale of 158 dwellings previously permitted under Outline Planning Permission DC/16/5410/OUT | Land North And East Of Hill Farm Road Halesworth Suffolk \(eastsuffolk.gov.uk\)](#)



Appendix A



**PROPOSED CREATION OF  
HALESWORTH FOOTPATH 27 AND  
HOLTON FOOTPATH NO 14 - HIGHWAYS  
ACT 1980 SECTION 26**

Scale: 1:2,500 at A4

Proposed Footpath  
Unaffected Footpath  
Definitive Map Parish Boundary



DATE: 16/11/2023 Halesworth PP27\_Holton PP14 consultation map final  
DRAWN BY: BDK  
COUNCIL'S Survey Department, County Council, Ipswich, Suffolk, IP1 1AA. All rights reserved.  
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Appendix B Response form and consultation letter

**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@eastsoffolk.gov.uk](mailto:rightsofway@eastsoffolk.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@eastsoffolk.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

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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](mailto:rightsofway@eastsuffolk.gov.uk)

Yours Sincerely



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



## Appendix C

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 a 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 D – Photographs

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

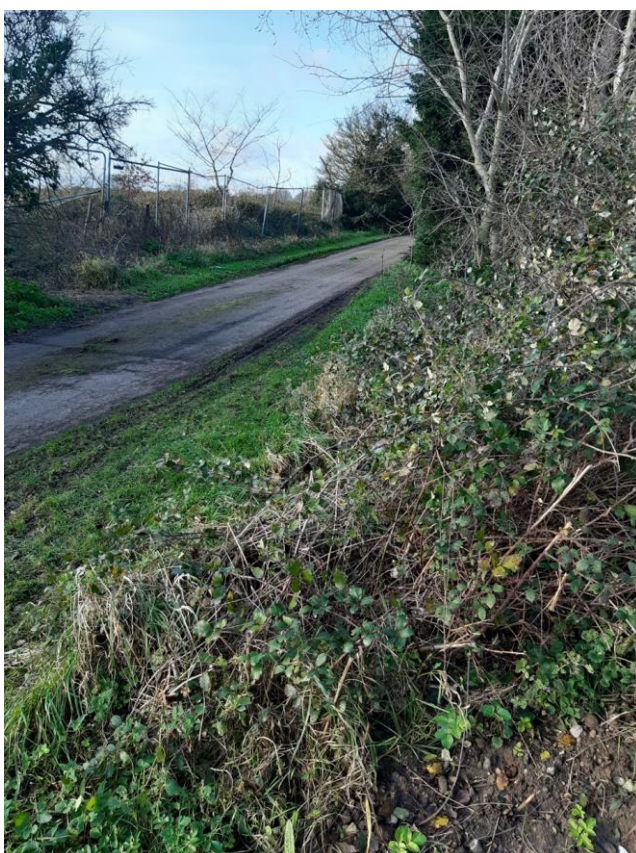


Looking from road towards west into public open space and path beyond the fence. Part of the foreground before the fence is the unregistered land.

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



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



Existing gate on Holton footpath No 6 into garden