

SECTION 257 TOWN & COUNTRY PLANNING ACT 1990

APPLICATION FOR A PUBLIC PATH DIVERSION ORDER AFFECTING PUBLIC FOOTPATH BA27/27 IN KEYNSHAM

1. The Issue

- 1.1 An application has been made to divert a section of Public Footpath BA27/27 in Keynsham. These changes are proposed to enable development to be carried out in accordance with planning permission 20/02673/OUT and would be achieved by way of a Public Path Diversion Order made under section 257 of the Town and Country Planning Act 1990.

2. Recommendation

- 2.1 That the Team Manager - Highways Maintenance and Drainage grants authorisation for a Public Path Diversion Order to be made to divert a section of Public Footpath BA27/27 as detailed on the plan attached at Appendix 1 ("the Decision Plan") and in the schedule attached at Appendix 2 ("the Decision Schedule").

3. Financial Implications

- 3.1 The Applicant has agreed to pay the cost for processing an Order and the cost of any required notices in a local newspaper. The Applicant has also agreed to meet the costs of bringing the proposed new route into a suitable condition for public use. Should an Order be made and confirmed, the Proposed Footpath will become maintainable at public expense.
- 3.2 Should an Order be made and objections received and sustained, then the Order will either be referred back to the Team Manager - Highways Maintenance and Drainage or to the Planning Committee to consider the matter in light of those objections. Should the Team Manager - Highways Maintenance and Drainage or Committee decide to continue to support the Order, then the Order will be referred to the Secretary of State for the Environment, Food and Rural Affairs for determination. Bath and North East Somerset Council ("the Authority") would be responsible for meeting the costs incurred in this process, for instance at a Public Inquiry.

4. Human Rights

- 4.1 The Human Rights Act incorporates the rights and freedoms set out in the European Convention on Human Rights into UK law. So far as it is possible all legislation must be interpreted so as to be compatible with the convention.
- 4.2 The Authority is required to consider the application in accordance with the principle of proportionality. The Authority will need to consider the protection of individual rights and the interests of the community at large.

- 4.3 In particular the convention rights which should be taken into account in relation to this application are Article 1 of the First Protocol (Protection of Property), Article 6 (the right to a fair hearing) and Article 8 (Right to Respect for Family and Private Life).

5. The Legal and Policy Background

- 5.1 The Authority has a discretionary power to make Public Path Orders. When considering an application for a Public Path Order, the Authority should first consider whether the proposals meet the requirements set out in the legislation. Even if all the tests are met, the Authority may exercise its discretion not to make the Order but it must have reasonable ground for doing so (R. (Hockerill College) v. Hertfordshire County Council (2008)).
- 5.2 Before making an Order under section 257 of the Town and Country Planning Act 1990 (“the Act”) the Authority must be satisfied that it is necessary for the public right of way to be diverted in order to enable development to be carried out in accordance with planning permission granted under Part III or section 293A of the Act.
- 5.3 The Authority must also give due regard to the effect the diversion will have on biodiversity and members of the public with protected characteristics under the Equality Act 2010.
- 5.4 In addition to the legislative tests detailed above, the proposals will also be considered in relation to the Authority’s adopted Public Path Order Policy. The Policy sets out the criteria against which the Authority will assess any Public Path Order application and stresses that the Authority will seek to take a balanced view of the proposals against all the criteria as a whole.
- 5.5 The criteria are:
- Connectivity,
 - Equalities Impact,
 - Gaps and Gates,
 - Gradients,
 - Maintenance.
 - Safety,
 - Status,
 - Width,
 - Features of Interest,
- 5.6 The Authority will consider the effect on Climate Change.

6. Background and Application

- 6.1 The section of Public Footpath BA27/27 that is the subject of this application is recorded on the Definitive Map and Statement with a relevant date of 26th November 1956 and has remained unchanged since that date.
- 6.2 The proposal is to divert a section of Public Footpath BA27/27 commencing from Point A on the Decision Plan to Point B, to a new line commencing from Point A and proceeding via Points C, D, E and F to Point B.

- 6.3 Development is planned in accordance with planning permission 20/02673/OUT. The footpath must be formally diverted to allow for the development to take place. The diversion would be achieved by way of a Public Path Diversion Order made under section 257 of the Town and Country Planning Act 1990.

Description of the Route to be Diverted:

- 6.4 The full width of the section of public footpath BA27/27 commencing from grid reference ST 6683 6780 (point A on the Decision Plan) and continuing in a generally east-southeasterly direction for approximately 171 metres to grid reference ST 6698 6774 (point B on the Decision Plan). This route is referred to as the “Existing Footpath”

Description of the Proposed Footpath:

- 6.5 A section of public footpath commencing from grid reference ST 6683 6780 (point A on the Decision Plan) and proceeding in a generally east south-easterly direction for approximately 80 metres to grid reference ST 6690 6776 (point C on the Decision Plan), and then turning in a generally north north-easterly direction for approximately 8 metres to grid reference ST 6690 6777 (point D on the Decision Plan), and then turning in a generally east south-easterly direction for approximately 73 metres to grid reference ST 6696 6773 (point E on the Decision Plan), and then turning in a generally north north-easterly direction for approximately 14 metres to grid reference ST 6697 6774 (point F on the Decision Plan), and then turning in a generally east south-easterly direction for approximately 19 metres to grid reference ST 6698 6774 (point B on the Decision Plan). This route is referred to as the “Proposed Footpath”.
- 6.6 The Proposed Footpath will be 2 metres wide between grid reference ST 6683 6780 (point A) and grid reference ST 6698 6774 (point B) and will be created without any limitations.

7. Consultations

- 7.1 Affected landowners, Keynsham Town Council, national and local user groups, the Ward Councillors and statutory undertakers were all consulted about the proposed diversion for a period of four weeks (“the Consultation Period”). Additionally site notices were erected at either end of the section of footpath to be diverted and on the Authority’s website to seek the views of members of the public.
- 7.2 In response to the consultation Keynsham Town Council stated that they supported the proposals; Bristol Water, Vodafone and BT stated that they had no objection to the proposals; Sky stated that they may be affected by the proposals but raised no objections; National Gas stated that they had assets in the area but again raised no objections to the proposals.
- 7.3 The rights of Sky and National Gas, as statutory undertakers under the route to be stopped up, will be preserved in the Public Path Order.

- 7.4 No other comments were received in relation to these proposals during the Consultation Period.

8. Officer Comments

- 8.1 **The legislative test under consideration is whether it is necessary to divert the public right of way to enable development to be carried out.**
- 8.2 The Existing Footpath runs over land which has planning permission to be developed and built upon. If the footpath is not diverted, the public right of way will go through two of the new dwelling houses. The Proposed Footpath will divert the route around the edge of these houses and the diversion is therefore necessary to allow the development to take place.
- 8.3 **The Authority must give due regard to the effect the diversion will have on biodiversity and members of the public with disabilities.**
- 8.4 The Proposed Footpath will comprise a tarmacked path whereas the Existing Footpath runs across a field. The development as a whole may affect biodiversity but this has been considered when granting planning permission and mitigating measures are to be taken as part of the planning process. The current surface of the Existing Footpath is uneven and crosses a stream. The Proposed Footpath will be flat with no stream crossing. This will have a positive impact on those with mobility and visual impairments.
- 8.5 **The effect of the diversion on the additional criteria identified in the Authority's Public Path Order Policy; namely, Connectivity, Equalities Impact, Gaps and Gates, Gradients, Maintenance, Safety, Status, Width and Features of Interest.**
- 8.6 The Proposed Footpath would start and finish at the same point as the Existing Footpath so there would be no effect on connectivity.
- 8.7 The Existing Footpath runs across a field with an uneven surface and, at one point, crosses a stream. The Proposed Footpath would run over a laid out, tarmac surface with no stream crossing and would therefore be easier to traverse, having a positive impact on those with mobility and visual impairments.
- 8.8 The Proposed Footpath will be created without any limitations and without any gates being added to the route.
- 8.9 There will be no change in gradient as a result of these proposals and there will be one less ditch crossing to maintain. The removal of the ditch crossing will increase safety. There will be no changes to the status or width of the footpath. Nor will there be any changes to features of interest.
- 8.10 **Climate Change**
Public rights of way are a key resource for shifting to low-carbon, sustainable means of transport. The proposals are part of the ongoing management of the network and therefore contribute towards helping to tackle the Climate Emergency.

9. Risk Management

9.1 There are no significant risks associated with diverting the footpath.

10. Conclusion

10.1 It appears that the relevant statutory test for making such a Public Path Diversion Order has been met and that on balance the proposed diversion is in accordance with the Council's Public Path Order Policy.

10.2 The Order should be made as detailed in the Decision Plan and Decision Schedule.

AUTHORISATION

Under the authorisation granted by the Council on 21st July 2022, the Team Leader: Place Legal Services is hereby requested to seal an Order to divert a section of Public Footpath BA27/27 as shown on the Decision Plan and as detailed in the Decision Schedule and to confirm the Order if no sustained objections are received.



Date: 16/01/2025

Craig Jackson

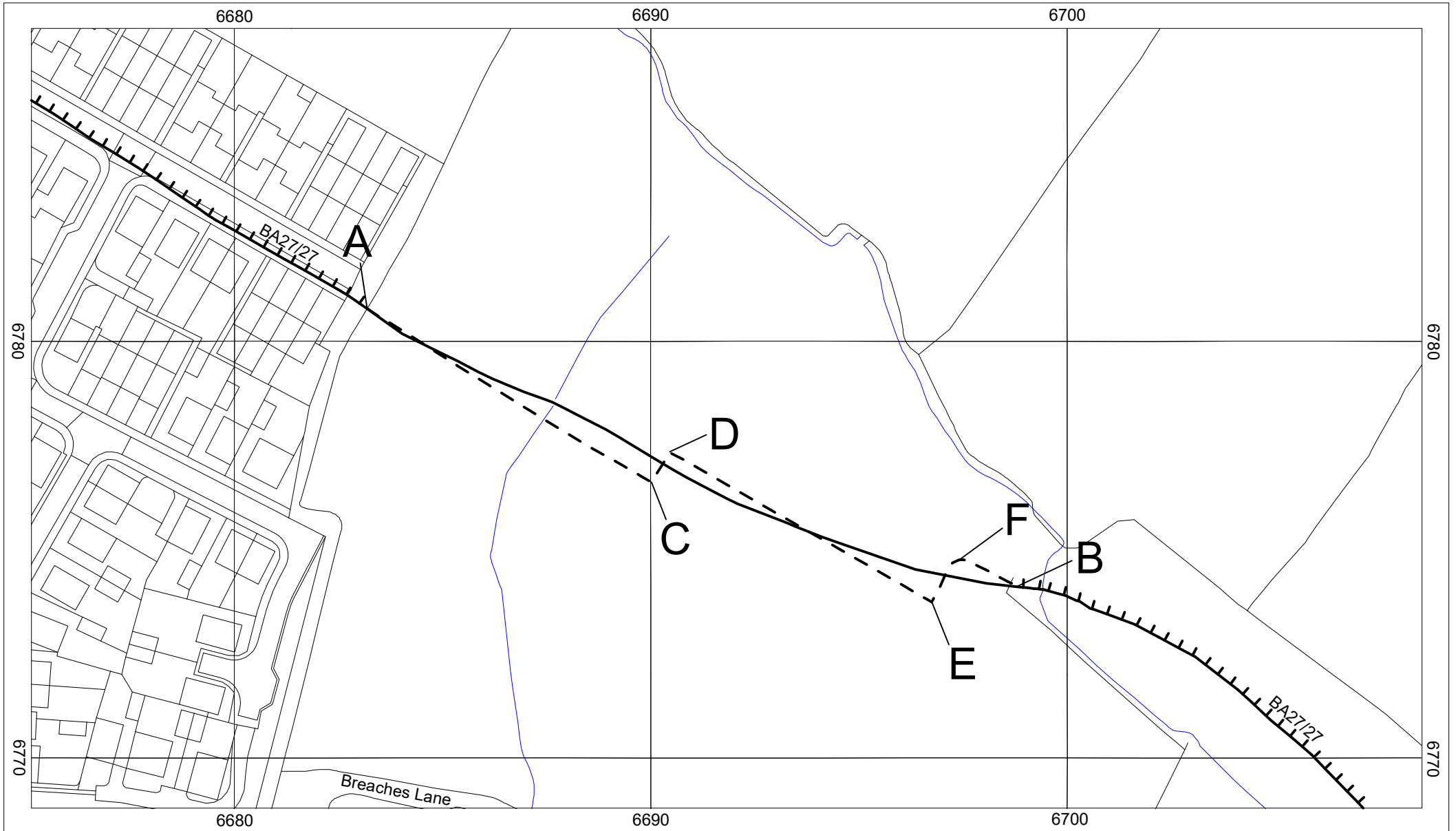
Team Manager - Highways Maintenance and Drainage

**Appendix 1 - Decision Plan
Public Footpath BA27/27,
Withies Green, Keynsham**

Public footpath to be added
Unaffected public footpath
Public footpath to be stopped up



Scale 1:1250



APPENDIX 2 - DECISION SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

The full width of the section of public footpath BA27/27 commencing from grid reference ST 6683 6780 (point A on the Decision Plan) and continuing in a generally east-southeasterly direction for approximately 171 metres to grid reference ST 6698 6774 (point B on the Decision Plan).

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

A section of public footpath commencing from grid reference ST 6683 6780 (point A on the Decision Plan) and proceeding in a generally east south-easterly direction for approximately 80 metres to grid reference ST 6690 6776 (point C on the Decision Plan), and then turning in a generally north north-easterly direction for approximately 8 metres to grid reference ST 6690 6777 (point D on the Decision Plan), and then turning in a generally east south-easterly direction for approximately 73 metres to grid reference ST 6696 6773 (point E on the Decision Plan), and then turning in a generally north north-easterly direction for approximately 14 metres to grid reference ST 6697 6774 (point F on the Decision Plan), and then turning in a generally east south-easterly direction for approximately 19 metres to grid reference ST 6698 6774 (point B on the Decision Plan).

Width: 2 metres between grid reference ST 6683 6780 (point A) and grid reference ST 6698 6774 (point B).