



## Highways Committee

**Date** Monday 2 September 2019

**Time** 11.00 a.m.

**Venue** Robinson Room, The Glebe Centre, Murton

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest, if any
4. Proposed diversion of Public Bridleway No. 29, Murton Parish - Town and Country Planning Act 1990 Section 257 - Joint Report of Corporate Director of Regeneration and Local Services and Head of Legal and Democratic Services (Pages 3 - 24)
5. Proposed extinguishment of part of Public Footpath No. 27, Murton Parish - Highways Act 1980 Section 118 - Joint Report of Corporate Director of Regeneration and Local Services and Head of Legal and Democratic Services (Pages 25 - 38)
6. Such other business, as in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
23 August 2019

To: **The Members of the Highways Committee**

Councillor C Kay (Chair)

Councillor S Morrison (Vice-Chair)

Councillors D Bell, H Bennett, G Bleasdale, J Chaplow,  
J Considine, S Dunn, D Hicks, K Hopper, S Hugill, K Liddell,  
O Milburn, R Ormerod, J Rowlandson, P Sexton,  
J Shuttleworth, A Simpson, K Thompson, J Turnbull and  
M Wilson

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**Contact: Michael Turnbull**

**Tel: 03000 269 714**

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## Special Highways Committee

2 September 2019

**Proposed diversion of Public Bridleway  
No. 29 Murton Parish  
Town and Country Planning Act 1990  
Section 257**



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**Joint Report of Ian Thompson, Corporate Director of Regeneration and Local Services and Helen Lynch, Head of Legal and Democratic Services**

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### **Electoral division(s) affected:**

Murton

### **Purpose of the Report**

1. To consider a proposal to divert a section of Public Bridleway No. 29 Murton Parish by public path order (Town and Country Planning Act 1990 Section 257) at Jade Business Park. The Council's Constitution requires the Committee to decide whether to make an Order, as the proposal has attracted objection from the Ramblers Association.
2. Full Planning permission has been granted for the development of Phase 1 of the Jade Business Park, on the site of the former Hawthorn Colliery and Hawthorn/Murton Coke Works. To enable this development to proceed in accordance with the planning permission granted, it is necessary to divert a section of Public Bridleway No. 29. Accordingly, the developer has requested the Council to make such a Diversion Order. A consultation on the proposed diversion resulted in an objection from the Ramblers Association.

### **Recommendation**

3. The proposal is in accordance with the Council's policy and the statutory framework on the diversion of public rights of way.
4. It is recommended that the Committee agrees to the making of a Public Bridleway Diversion and Definitive Map Modification Order for Public Bridleway No. 29 Murton Parish, under the provisions of section 257 of the Town and Country Planning Act 1990 and

section 53(A)(2) of the Wildlife and Countryside Act 1981, and that the Corporate Director of Resources be informed accordingly.

5. The Order shall subsequently be confirmed as an unopposed Order or referred to the Secretary of State for determination in the event of objections.

## **Background**

6. The development of Jade Business Park is a major economic project in East Durham, bringing employment to the site of the former Hawthorn Colliery. The site was reclaimed after the closure of the pit in 1991.
7. Public Bridleway No. 29 Murton Parish runs in a roughly north-easterly direction across the site, commencing in South Hetton and roughly following the line of the former mineral railway. It only became a Public Right of Way in 2004 when it was legally created as part of the reclamation of the site. An extract of the Definitive Map of Public Rights of Way for County Durham is at **Appendix A**.
8. On 12 July 2019 full planning permission DM/19/01316/FPA was granted for Phase 1 of Jade Business Park, comprising 5 buildings and associated works, following a meeting of the County Planning Committee on 2 July 2019. A copy of the planning permission is at **Appendix B**.
9. An application to divert Public Bridleway No. 29 was received in May 2019. The relevant statutory provision for the diversion of a public path to enable development to be carried out in accordance with planning permission is section 257 of the Town and Country Planning Act 1990.
10. The Act gives authority to a Council to make a Public Path Diversion Order if it is satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission.
11. The existing route of Bridleway 29 would conflict with the development and the proposed diversion is the minimum necessary to enable the development to proceed, and maintains the integrity of the route, keeping walkers, cyclists and horse-riders away from the area to be developed and minimising potential interaction with vehicles. The proposed diversion will

move the Bridleway to a more southerly route around the southern edge of the development, and is shown at **Appendix C**.

12. Consultations on the proposed Diversion Order have been carried out with the Local Members, Murton Parish Council, the Ramblers' Association, the British Horse Society and other user groups. A copy of the consultation letter is at **Appendix D**.
13. An objection was received from Mr Blackburn on behalf of the Ramblers' Association. This objection is at **Appendix E**. There were no objections from the other consultees.
14. The objection is that the proposed diversion is significantly longer, and may therefore be an inconvenience to walkers.

### **Response to objection and assessment of the application**

15. It is of note that the statutory test is one of necessity to enable the development to be carried out and it is considered that this test is satisfied. Although the proposed diversion is approximately 263 metres longer than the current route it is the minimum diversion necessary. The additional distance might be significant if this was a short path which was used as the most direct route to a key location, but in the context of a recreational route that is more than 3 kilometres long between South Hetton and the A19 roundabout, and more than 2.5 kilometres between South Hetton and Murton, the additional distance is not considered to make the alternative route unsuitable.
16. An order which is made and unopposed can be confirmed by the Council. However, confirmation is discretionary; it does not automatically follow the making of an Order. Case law has established that the Council must consider the effect of the Order on those entitled to the rights which would be affected by it. In this case, for the reasons set out in paragraph 15 above, it is not considered that the diversion would result in a route which is unsuitable for the public.

### **Options**

17. Retaining the route of the Bridleway through the development site is not feasible. The size and access requirements of the various buildings are such that there is no safe way of accommodating a Public Bridleway within Phase 1 of the development. A diversion to the north of Phase 1 was considered, but would potentially need to be moved again when future phases are developed, or

would become a corridor between business and industrial units. A much bigger diversion to the south of the site was also considered, but was felt to be beyond the scope of a Diversion Order under the provisions of Section 257. The proposal is the minimum necessary to protect public access and allow the development to proceed. Accordingly, there are no other realistic options.

### **Main Implications**

18. The proposal would enable development to proceed in accordance with planning permission already granted, whilst retaining a Public Bridleway between South Hetton and Murton. If the Order is not made and subsequently confirmed, the development as currently permitted will not be able to proceed.

### **Conclusions and recommendation**

19. In conclusion, it is considered that the grounds for making and confirming an Order are satisfied. It is therefore recommended that a Diversion and Definitive Map Modification Order should be made in respect of Public Bridleway No. 29 Murton Parish, under the provisions of section 257 of the Town and Country Planning Act 1990 and section 53(A)(2) of the Wildlife and Countryside Act 1981, and subsequently either confirmed or referred to the Secretary of State for determination.

### **Process for a public path order (for information)**

Should Members resolve that a Diversion Order be made in accordance with the recommendation above, this is merely the start of the legal process. In particular, once a Diversion Order has been made, it must be publicised and anyone will have an opportunity to formally object to it. Should objections be received, the Diversion Order would have to be referred to the Secretary of State who would usually hold a Public Inquiry before making a decision upon whether or not to confirm the Diversion Order. If there are no objections, the Council can confirm the Order as unopposed.

## Attached Documents to report

<b>Document A</b>	Extract from Definitive Map of public rights of way
<b>Document B</b>	Planning permission
<b>Document C</b>	Diversion proposal plan
<b>Document D</b>	Consultation letter
<b>Document E</b>	Objection

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**Contact: Mike Ogden      Tel: 03000 265331**  
**Neil Carter        Tel: 03000 269722**

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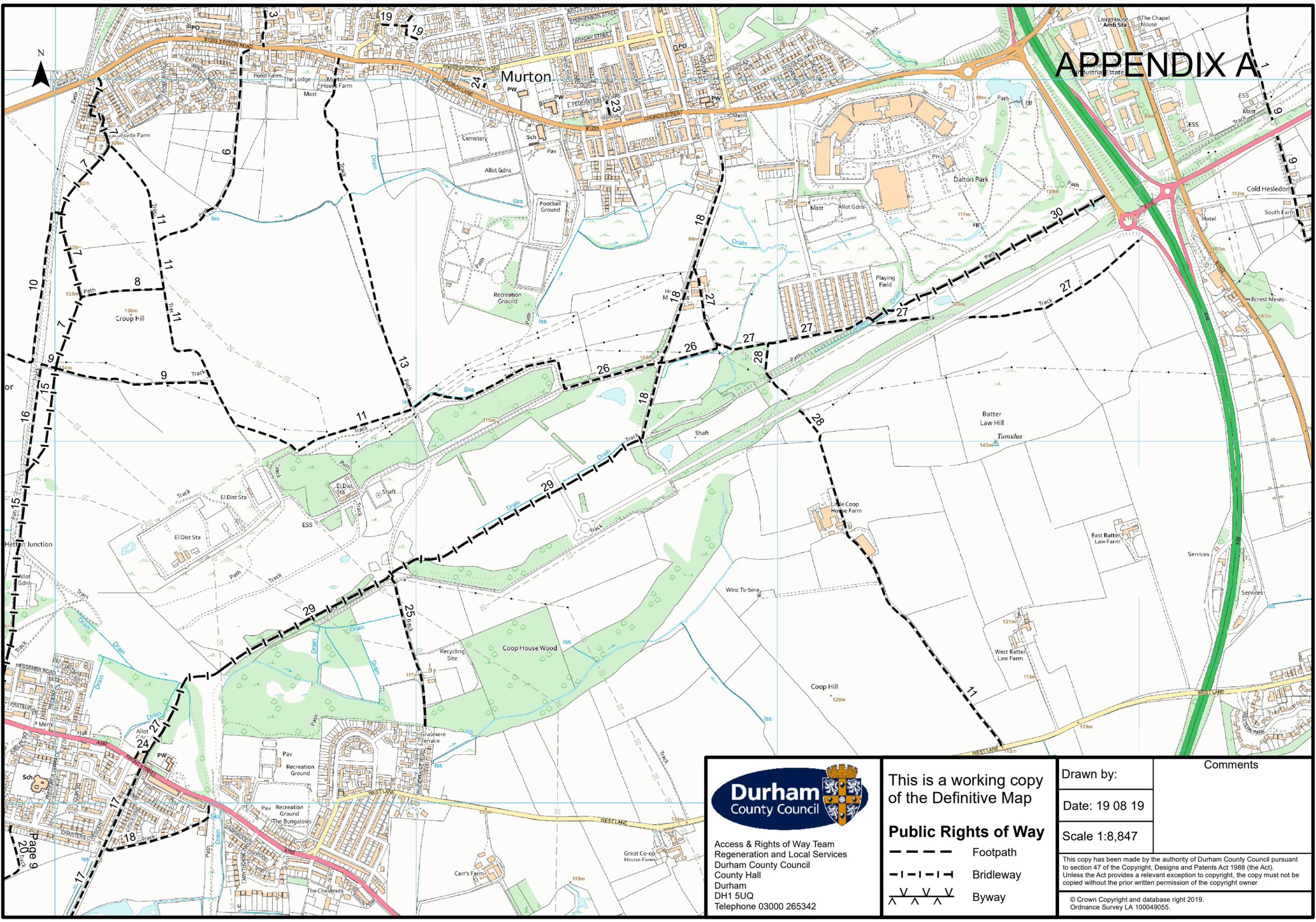
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**Appendix 1: Implications**

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<b>Finance</b>	The applicant will cover the costs associated with this proposal as described in the report
<b>Staffing</b>	Part of routine officer responsibilities
<b>Risk</b>	Low
<b>Equality and Diversity / Public Sector Equality Duty</b>	The new route of the  Public Bridleway will be as accessible as possible  for the location
<b>Accommodation</b>	None
<b>Crime and Disorder</b>	Not applicable
<b>Human Rights</b>	All those affected by the proposal will have the opportunity to submit objections and to present their case to an Inspector appointed by the Secretary of State for the Environment in the event of objection at the formal order making stage.
<b>Consultation</b>	As detailed in the report at paragraph 11
<b>Procurement</b>	None
<b>Disability Issues</b>	The proposal is the most accessible of all the options discussed in the report as described
<b>Legal Implications</b>	The Order can be contested through a statutory process so a legal challenge is unlikely to be appropriate

# APPENDIX A



**Durham**  
 County Council  
 Access & Rights of Way Team  
 Regeneration and Local Services  
 Durham County Council  
 County Hall  
 Durham  
 DH1 5UQ  
 Telephone 03000 265342

This is a working copy of the Definitive Map

### Public Rights of Way

- Footpath
- |-|-| Bridleway
- ∨ ∨ ∨ Byway

Drawn by:  
 Date: 19 08 19  
 Scale 1:8,847

### Comments

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 Ordnance Survey LA 100049055.

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**Regeneration and Local Services**  
 Durham County Council  
 Planning Development (Strategic)  
 Room 4/123-128, County Hall, Durham DH1 5UL Main  
 Telephone: 03000 262 830



## APPROVAL OF PLANNING PERMISSION

### TOWN AND COUNTRY PLANNING ACT 1990

Application Number: **DM/19/01316/FPA**

Applicant

Buckinghamshire Properties Limited  
 Mr Guy Marsden  
 36/38 Berkeley Square  
 London  
 W1J 5AE

Agent

Frank Shaw Associates  
 Mr David Willis  
 Penmore House  
 Hasland  
 Chesterfield  
 Derbyshire  
 S41 0SJ

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#### PART 1 – PARTICULARS OF THE APPLICATION

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Proposed: Erection of 7 units (5 buildings) for B2/B8 industrial use with integrated offices and associated service yards, car parking and landscaping

At: Jade Business Park Phase 1  
 Jade Enterprise Zone  
 Murton  
 SR7 8RN

Date of Application: 25 April 2019

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#### PART 2 – PARTICULARS OF DECISION

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The **Durham County Council** hereby give notice in pursuance of the Town and Country Planning Act 1990 that planning permission has been **GRANTED** for the carrying out of the development referred to in Part 1 hereof in accordance with the application and plans submitted subject to the following conditions and reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 1, 35, 36, 37, 38, 74 and 75 of the District of Easington Local Plan and the NPPF.

3. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved by the Local Planning Authority in conjunction with Highways

England. Thereafter the approved Construction Traffic Management Plan shall be adhered to throughout the construction period.

Reason: In the interest of maintaining Strategic Road Network operation and safety in accordance with Part 9 of the NPPF. Required to be pre-commencement as the Construction Traffic Management Plan must be approved prior to the construction traffic visiting the site.

4. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a further Phase 3 remediation strategy shall be produced to include details of the gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

5. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

6. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until a scheme has been agreed in writing with the Local Planning Authority for the protection of the trees to be retained that lie within the structural planting areas to the north and south of the site. The trees shall be protected through the erection of fencing and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar in accordance with BS 5837:2012. Protection measures shall remain in place until the cessation of the development works unless the local planning authority agrees in writing to any variation.

Reason: To protect trees from construction damage. In the interests of visual amenity of the area having regards to Policy 1 of the District of Easington Local Plan and Parts 12 and 15 of the NPPF. Required to be pre-commencement as the trees must be protected ahead of the construction activities occurring which pose potential risk to their health.

7. No development, other than site remediation works, shall commence until a detailed landscaping scheme including details of the biodiversity mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include the following.

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths. - Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- A timetable for the implementation of the various elements of the landscaping scheme including the landscape buffer planting, biodiversity mitigation measures, general landscaping within each of the plots.

The approved landscaping scheme shall be implemented and completed in accordance with the approved details and timescales.

Any trees or plants which die, fail to flourish or are removed within 5 years of completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policies 1 and 35 of the District of Easington Local Plan and Parts 12 and 15 of the National Planning Policy Framework.

8. No unit shall be occupied until road signage has been erected in accordance with a Road Signage Strategy which has been first submitted to and agreed by the Local Planning Authority in conjunction with Highways England. Thereafter the signage shall be retained whilst the business park is in operation.

Reason: In the interest of maintaining Strategic Road Network operation and safety in accordance with Part 9 of the NPPF.

9. No unit shall be occupied until a Travel Plan founded on the Framework Travel Plan submitted with the planning application and conforming to BSI National Specification for Workplace Travel Plans (PAS500) guidance has been submitted to and agreed in writing by the Local Planning Authority in conjunction with Highways England. Once approved the Travel Plan must be adhered to for the lifetime of the development.

Reason: In the interest of maintaining Strategic Road Network operation and safety in accordance with Part 9 of the NPPF.

10. No unit shall be occupied until a scheme for the ongoing maintenance of the areas of landscaping and areas for biodiversity enhancement within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance and cutting schedule in perpetuity.

Reason: In the interests of the visual amenity of the area and to comply with Policies E1, L2 and D1 and D9 of the Sedgefield Borough Local Plan and Parts 12 and 15 of the National Planning Policy Framework.

11. The secondary (emergency) vehicular access point to the north of the site leading onto the unadopted road shall not be brought into use until such time as a 'Secondary (Emergency) Access Management Strategy' has been submitted to and approved in writing by the Local Planning Authority. As a minimum requirement the strategy shall include details of when the access will open, when it can be used, how access will be restricted to prevent unauthorised usage and a mechanism to update the strategy to reflect the operational requirements of individual occupiers of the site. The approved strategy shall be adhered to for the lifetime of the development.

Reason: In the interests of the amenity of surrounding residents and in order to comply with Policies 1 and 35 of the District of Easington Local Plan and Part 15 of the NPPF.

12. Within 28 days of each individual occupier being operational a noise validation assessment shall be carried out and a report submitted in writing to the Planning Authority. The aim of the validation shall be to ensure that the rating level of the noise emitted from commercial operations/plant (excluding vehicles travelling beyond the boundary of the site) shall not exceed the stated levels at the following locations:

Woodlands and Windermere Road 42dB (1hr) 07.00 - 23.00 and 30dB LAeq (15 minutes) 23.00-07.00.

East Little Coop House Farm, Hesledon Moor East Farm and Barwick Street 44dB (1hr) 07.00 - 23.00 and 33dB LAeq (15 minutes) 23.00-07.00.

The measurements and assessment shall be made in accordance with BS4142:2014.

Reason: In the interests of the amenity of surrounding residents and in order to comply with Policies 1 and 35 of the District of Easington Local Plan and Part 15 of the NPPF.

13. The development shall be carried out in complete accordance with the drainage scheme within the following documents:

Drainage Strategy ref. no. 1014936.RPT.CL.002 Rev A dated 16.04.19  
Drg. no. CLXX(52)4001 received 13/06/2019

The drainage scheme must thereafter be fully maintained and managed for the lifetime of the development.

Reason: To prevent the increased risk of flooding from any sources in accordance with Part 14 of the NPPF.

14. The development shall take place in strict accordance with the recommendations detailed in Section H of the Ecological Appraisal and Bat Surveys Version R03 by E3 Ecology Limited dated June 2019.

Reason: In the interests of biodiversity protection and enhancement in accordance with Part 15 of the NPPF.

15. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policies 1 and 35 of the Easington Local Plan and Parts 8 and 15 of the National Planning Policy Framework.

**PART 3 – APPROVED PLANS**

Plan	Drawing No.	Date Received
bin store type 1 plan and elevations	0104 Rev. P01	23/04/19
bin store type 2 plan and elevations	0105 Rev. P01	23/04/19
cycle shelters	0106 Rev. P01	23/04/19
landscape strategy plan	0108 Rev. P01	23/04/19
Plot 1000 (units 1100/1200) ground floor plan	1010 Rev. P01	23/04/19
Plot 1000 (units 1100/1200) first floor plan	1011 Rev. P01	23/04/19
Plot 1000 (units 1100/1200) roof plan	1012 Rev. P01	23/04/19
Plot 1000 (units 1100/1200) office plans	1013 Rev. P01	23/04/19
Plot 1000 (units 1100/1200) elevations	2010 Rev. P01	23/04/19
Plot 1000 (units 1300/1400) ground floor plan	1020 Rev. P02	23/04/19
Plot 1000 (units 1300/1400) first floor plan	1021 Rev. P02	23/04/19
Plot 1000 (units 1300/1400) roof plan	1022 Rev. P02	23/04/19
Plot 1000 (units 1300/1400) office plans	1023 Rev. P01	23/04/19
Plot 1000 (units 1300/1400) elevations	2020 Rev. P02	23/04/19
Plot 2000 ground floor plan	1030 Rev. P02	23/04/19
Plot 2000 first floor plan	1031 Rev. P02	23/04/19
Plot 2000 roof plan	1032 Rev. P02	23/04/19
Plot 2000 office plans	1033 Rev. P02	23/04/19
Plot 2000 elevations	2030 Rev. P02	23/04/19
Plot 3000 ground floor plan	1040 Rev. P02	23/04/19
Plot 3000 first floor plan	1041 Rev. P02	23/04/19
Plot 3000 roof plan	1042 Rev. P02	23/04/19
Plot 3000 office plans	1043 Rev. P02	23/04/19
Plot 3000 elevations	2040 Rev. P02	23/04/19
Plot 4000 ground floor plan	1050 Rev. P05	23/04/19
Plot 4000 first floor plan	1051 Rev. P04	23/04/19
Plot 4000 roof plan	1052 Rev. P03	23/04/19
Plot 4000 office plans	1053 Rev. P07	23/04/19
Plot 4000 elevations	2050 Rev. P04	23/04/19
Section 104 proposed surface and foul water drainage	PI/HHAW/500/014	23/04/19
Light pollution study	BSXX(63)1001	24/05/19
Geoenvironmental Appraisal report by Dunelm Geotechnical and Environmental	report no. D8669/01	04/09/18
	1014936.RPT.GL.00	16/04/19
Preliminary Geoenvironmental Assessment (Phase 1 Desk Study) doc. by Cundall	1 Rev B	02/05/19
	ref. D8669/GRA	04/06/19
Gas Risk Assessment letter by Dunelm Geotechnical and Environmental	ref.	13/06/19
	1014936.RPT.GL.00	17/06/19
Detailed Remediation and Verification and Verification Strategy doc.	3	18/06/19
		23/04/19
Articulated vehicle tracking for secondary access	0100 Rev. P04	
Location Plan	0111 Rev. P01	
Extended location plan	1012 Rev. P03	
site plan		

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## STATEMENT OF PROACTIVE ENGAGEMENT

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1. The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

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## SIGNATURE

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Signed:

Date: 12 July 2019



S Timmiss  
Head of Development and Housing

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## INFORMATIVES

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Coal Authority Standing Advice

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Standing Advice valid from 1st January 2019 until 31st December 2020

**IMPORTANT NOTICE**  
**THIS PERMISSION IS NOT VALID UNLESS THE CONDITIONS LISTED ARE COMPLIED WITH**

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## **NOTES TO APPLICANT**

### **Further Information**

This certificate is issued under the Town and Country Planning Acts and Orders and does not constitute a permission, approval or consent for any other purpose. Applications must therefore be made for any other permission, approval or consent (including Building Regulations approval or the approval of the Council as ground landlord where appropriate) which may be necessary in connection with the proposed development or anything incidental thereto, or the use to be made of the premises which form the subject of such development. Further approval of this local planning authority must be obtained for any subsequent alterations to the approved plans.

### **Appeals to the Secretary of State**

\* If the applicant is aggrieved by the decision of the Council to refuse permission, they may appeal under Section 78 of the Town and Country Planning Act 1990, within six months of the date of this notice. In the case of 'Householder' or some forms of minor commercial development, the appeal must be made within 12 weeks of the date of this notice. If an enforcement notice relates to the site, there may be a shorter period for making the appeal. Please contact us for further advice.

### **Purchase Notice**

\* If the local planning authority or Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

\* In these circumstances, the owner may serve a purchase notice on the Council. This will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

### **Compensation**

\* In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application.

\* These circumstances are set out in Part IV and related provisions of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.

### **Public Rights Of Way**

This planning permission does not convey any rights to stop up, divert, obstruct or otherwise effect public rights of way, and appropriate orders must be sought for these purposes before any development starts.

The Definitive Map of Public Rights of Way can be viewed at [www.durham.gov.uk](http://www.durham.gov.uk).



## NOTIFICATION OF COMMENCEMENT OF DEVELOPMENT

**Planning Reference:** DM/19/01316/FPA  
**Address of Works:** Jade Business Park Phase 1 Jade Enterprise Zone Murton  
SR7 8RN  
**Case Officer:** Laura Eden

I confirm that the above development will begin on site on: \_\_\_\_\_

and end approximately on: \_\_\_\_\_

Name (please print) \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Tel No: \_\_\_\_\_

Submission of this notice will allow us to help you by monitoring your development effectively. Please return it at least 2 weeks before work begins on site to [planning@durham.gov.uk](mailto:planning@durham.gov.uk) or the address above.

### IMPORTANT INFORMATION

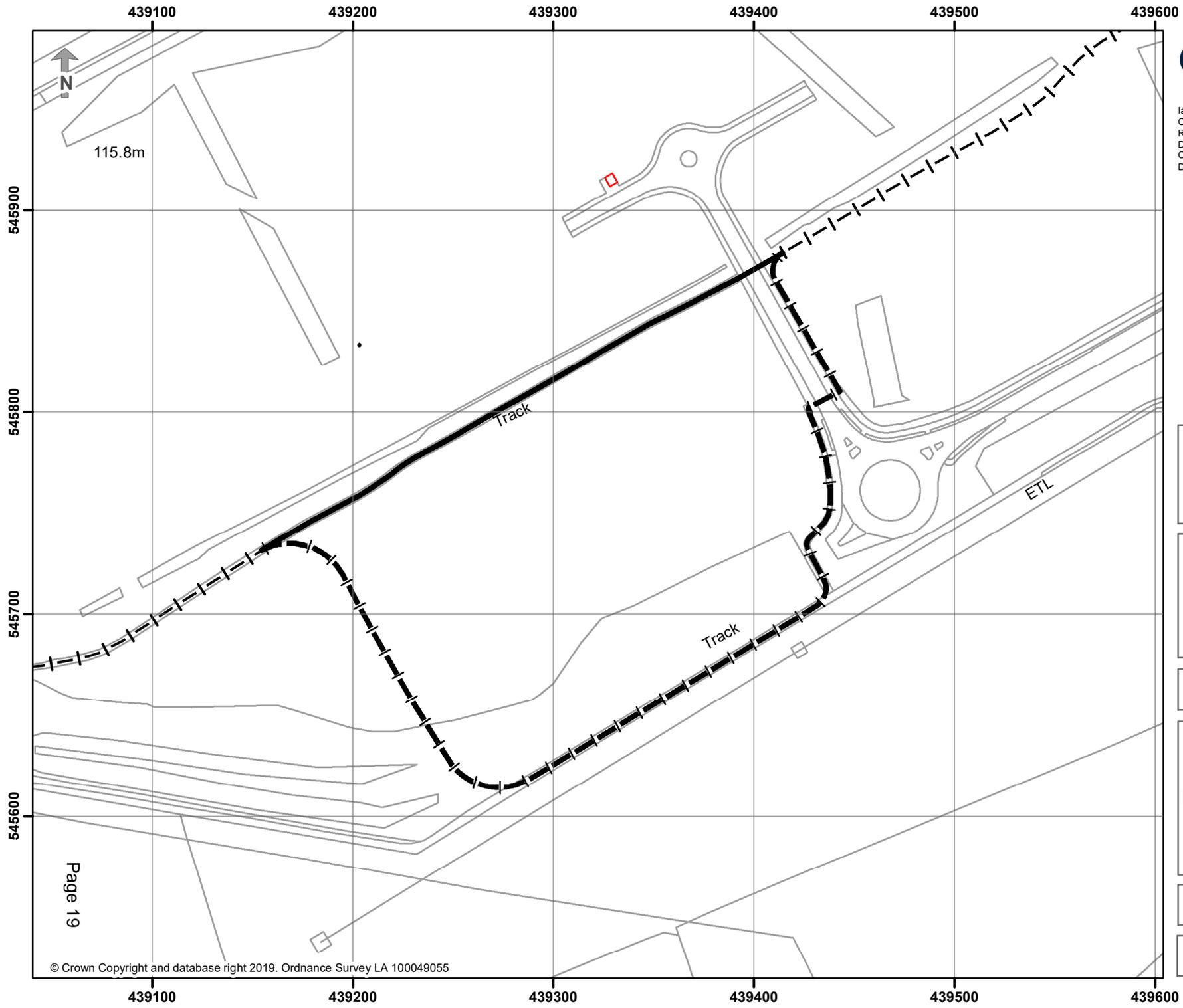
There may be a number of conditions attached to your planning permission. Please read this carefully and note those details which require the approval of Durham County Council before your development begins on site. It is particularly important that these conditions are fully complied with as failure to do so may have the effect of invalidating your planning permission. The approval of a further planning application would then be necessary in order for you to proceed with the development.

Once the development has commenced the Monitoring and Enforcement Officer may inspect the site to ensure that the requirements of all conditions are fully met and that your approved plans are being precisely followed. In the event of any non-compliance Durham County Council will consider the taking of enforcement action to remedy the situation.

Thank you for your co-operation



Ian Thompson  
Corporate Director  
Regeneration and Local Services  
Durham County Council  
County Hall  
Durham DH1 5UQ



### Proposed Diversion of part of Public Bridleway no. 29 Murton Parish

- Bridleway to be extinguished
- Bridleway to be created

Scale 1: 2,500

- Public Rights of Way / Highways not affected by the proposal
- Public Bridleway
- Adopted Highway

Drawn: 21 May 2019

Postcode: SR7 9TP, DH6 2RX

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Contact: Owen Shaw  
Direct Tel: 03000 265 338  
email: owen.shaw@durham.gov.uk  
Your ref:  
Our ref: RED/NM/AROW/OS

24 May 2019

Dear

## **Town & Country Planning Act 1990 Section 257**

### **Proposed Diversion of Public Bridleway No. 29 Murton Parish**

I am considering a proposal under the provisions of Section 257 of the Town & Country Planning Act 1990, to divert a section of the above-mentioned Public Right of Way, as shown on the enclosed plan.

The diversion is requested by Buckinghamshire Properties Ltd in order to enable the proposed development of 7 units (5 Buildings) for industrial use, associated service yards, car parking and landscaping (Planning Application DM/19/01316/ FPA). The proposed diverted route would be a minimum 3m wide whinstone dust constructed path, with dropped kerbs on the constructed road.

I would be pleased to receive any comments or objections you may wish to offer, within 30 days of the date of this letter. If there are no objections, the application may be determined by the Corporate Director of Resources in consultation with the Corporate Director of Regeneration and Local Services, and if there are objections, it will be determined by the Highways Committee. If you need more time to consider the matter please let me know.

Please note that if you do make representations, then by virtue of the Local Government (Access to Information) Act 1985, the County Council may make them available for public inspection. Additionally they may also be disclosable under the Freedom of Information Act 2000.

Yours sincerely,

Owen Shaw  
Rights of Way Officer

Durham County Council, County Hall, Durham DH1 5UQ  
Telephone: 03000 260000  
Regeneration and Local Services

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**From:** Robert Blackburn  
**Sent:** 26 June 2019 15:12  
**To:** Owen Shaw  
**Subject:** Re: Proposed Diversion of Public Bridleway No. 29 Murton Parish, County Durham

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Green Category

Dear Owen

I'm sorry that I hadn't got back to you sooner but I thought that I had. The position of Ramblers is that we object to the diversion. The proposed new route is significantly longer than the old route and may be an inconvenience to walking users, particularly those who don't want their journeys getting longer.

Regards

Robert Blackburn

For Ramblers.

> On 24 May 2019, at 14:51, Owen Shaw <Owen.Shaw@durham.gov.uk> wrote:  
>  
> <Consultation letter.pdf>

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## Special Highways Committee

2 September 2019

### Proposed extinguishment of part of Public Footpath No. 27 Murton Parish Highways Act 1980 Section 118



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### Joint Report of Ian Thompson, Corporate Director of Regeneration and Local Services and Helen Lynch, Head of Legal and Democratic Services

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#### Electoral division(s) affected:

Murton

#### Purpose of the Report

1. To consider a proposal to extinguish part of Public Footpath No. 27 Murton Parish by public path order (Highways Act 1980 Section 118) at Hesledon Moor East Farm. The Council's Constitution requires the Committee to decide whether to make an Order, as the proposal has attracted objection from the Ramblers Association.

#### Executive summary

2. An application has been received from Mr Lamb of Hesledon Moor East to extinguish a section of Public Footpath No. 27 on the grounds that it is not needed for public use. A consultation on the proposed extinguishment resulted in an objection from the Ramblers Association.

#### Recommendation

3. The application proposal is in accordance with the Council's policy and the statutory framework on the extinguishment of public rights of way.
4. It is recommended that the Committee agrees to the making of a Public Footpath Extinguishment and Definitive Map Modification Order for part of Public Footpath No. 27 Murton Parish, under the provisions of section 118 of the Highways Act 1980 and section

53(A)(2) of the Wildlife and Countryside Act 1981, and that the Corporate Director of Resources be informed accordingly.

5. The Order shall subsequently be confirmed as an unopposed Order or referred to the Secretary of State for determination in the event of objections.

## **Background**

6. The Lamb family run both an agricultural business and a funeral service from the property at Hesledon Moor East. They have concerns about security at the site, and safety for any member of the public using the Public Footpath. The path is very rarely used and they have therefore applied to extinguish it.
7. Public Footpath No. 27 Murton Parish runs in a roughly southerly direction from Footpath No. 18, through the yard at Hesledon Moor East, to join Footpath No.26, before heading east and eventually finishing near the A19. It is part of a network of public rights of way to the south and east of Murton. An extract of the Definitive Map of Public Rights of Way for County Durham is at Appendix A.
8. An application to extinguish the section of Public Footpath No. 27 between Footpath No. 18 and Footpath No. 26 was received in March 2019. The relevant statutory provision for the extinguishment of a public path on the grounds that it is not needed for public use is section 118 of the Highways Act 1980. The proposed extinguishment is shown at Appendix B.
9. The Act gives authority to a Council to make a Public Path Extinguishment Order if it appears to the Council that it is expedient on the ground that the path in question is not needed for public use. The Council also needs to consider, when confirming such an order as unopposed, that it is expedient to do so having regard to the extent to which the path would, apart from the Order, be likely to be used by the public, and having regard to the effect which the extinguishment would have on the land crossed by the path. The Council must also have regard to the content of any ROW Improvement Plan (ROWIP). There is no current ROWIP for County Durham. Guidance is given in Annex 2 of DOE Circular 2/93 which advises that in making orders which entail closure of part only of a footpath, care should be taken to avoid creation of a cul-de-sac in the remainder.

10. Public Footpaths Nos. 18 and 26 provide an alternative route for Pedestrians, avoiding the farmyard areas. The applicant has offered to carry out improvements to Public Footpath No. 26 if his application is successful. However, this is a voluntary offer and no weight can be afforded to it in the consideration of this application.
11. Consultations on the proposed Extinguishment Order have been carried out with the Local Members, Murton Parish Council, the Ramblers' Association and other user groups. A copy of the consultation letter is at **Appendix C**.
12. An objection was received from Mr Blackburn on behalf of the Ramblers' Association. This objection is at **Appendix D**. There were no objections from the other consultees.
13. The objection is on the grounds that it is Ramblers' Association policy to oppose extinguishments. The probable historic nature of the path and its potential to pre-date the farm buildings is also mentioned. The objector has also indicated that a diversion of Public Footpath No. 27 on a route to the South of the farm buildings might be acceptable to them.

#### **Response to objection and assessment of the application**

14. The objector has not addressed the legal test of whether the footpath is unnecessary for public use and has not offered any evidence to suggest that the path is needed for public use to justify refusal of the application. Most public rights of way are historic, but that in itself does not mean that the path cannot be considered for extinguishment in accordance with the legislation. The suggestion of a diversion rather than an extinguishment was discussed with the applicant, but he felt that a diversion would be too close to his buildings, and would also not be used by the public as it would duplicate Footpath Nos. 18 and 26.
15. As there is a perfectly adequate alternative route in footpaths 18 & 26, it is considered that the section of path in question is not needed for public use. The proposal would result in a reduction of the network by only approximately 220 metres. In terms of the test for confirmation of an unopposed Order, it is considered that the section of path in question is unlikely to be used by the public, and the extinguishment would not have a negative effect on the landowner, who is the applicant.

## Options

16. The only alternative to an extinguishment of the footpath is a Diversion Order, under the provisions of section 119 of the Highways Act, in the interests of the landowner and on the grounds of privacy and security. This option has been considered by the applicant and rejected. The application for members for determination is for extinguishment and not diversion.

## Conclusions & Recommendation

17. In conclusion it is considered that the statutory tests for making of the extinguishment order and thereafter confirmation as an unopposed order, are met. Therefore, it is recommended that an Extinguishment and Definitive Map Modification Order should be made in respect of Public Footpath No. 27 Murton Parish, under the provisions of section 118 of the Highways Act 1980 and section 53(A)(2) of the Wildlife and Countryside Act 1981, and subsequently either confirmed or referred to the Secretary of State for determination.

## Process for a public path order (for information)

Should Members resolve that an Extinguishment Order be made in accordance with the recommendation above, this is merely the start of the legal process. In particular, once an Extinguishment Order has been made, it must be publicised and anyone will have an opportunity to formally object to it. Should objections be received, the Extinguishment Order would have to be referred to the Secretary of State who would usually hold a Public Inquiry before making a decision upon whether or not to confirm the Order. If no objections are raised, the Council can confirm the Order as unopposed.

## Attached Documents to report

<b>Document A</b>	Extract from Definitive Map of public rights of way
<b>Document B</b>	Extinguishment proposal plan
<b>Document C</b>	Consultation letter
<b>Document D</b>	Objection

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<b>Contact:</b>	<b>Mike Ogden</b>	<b>Tel: 03000 265331</b>
	<b>Neil Carter</b>	<b>Tel: 03000 269722</b>

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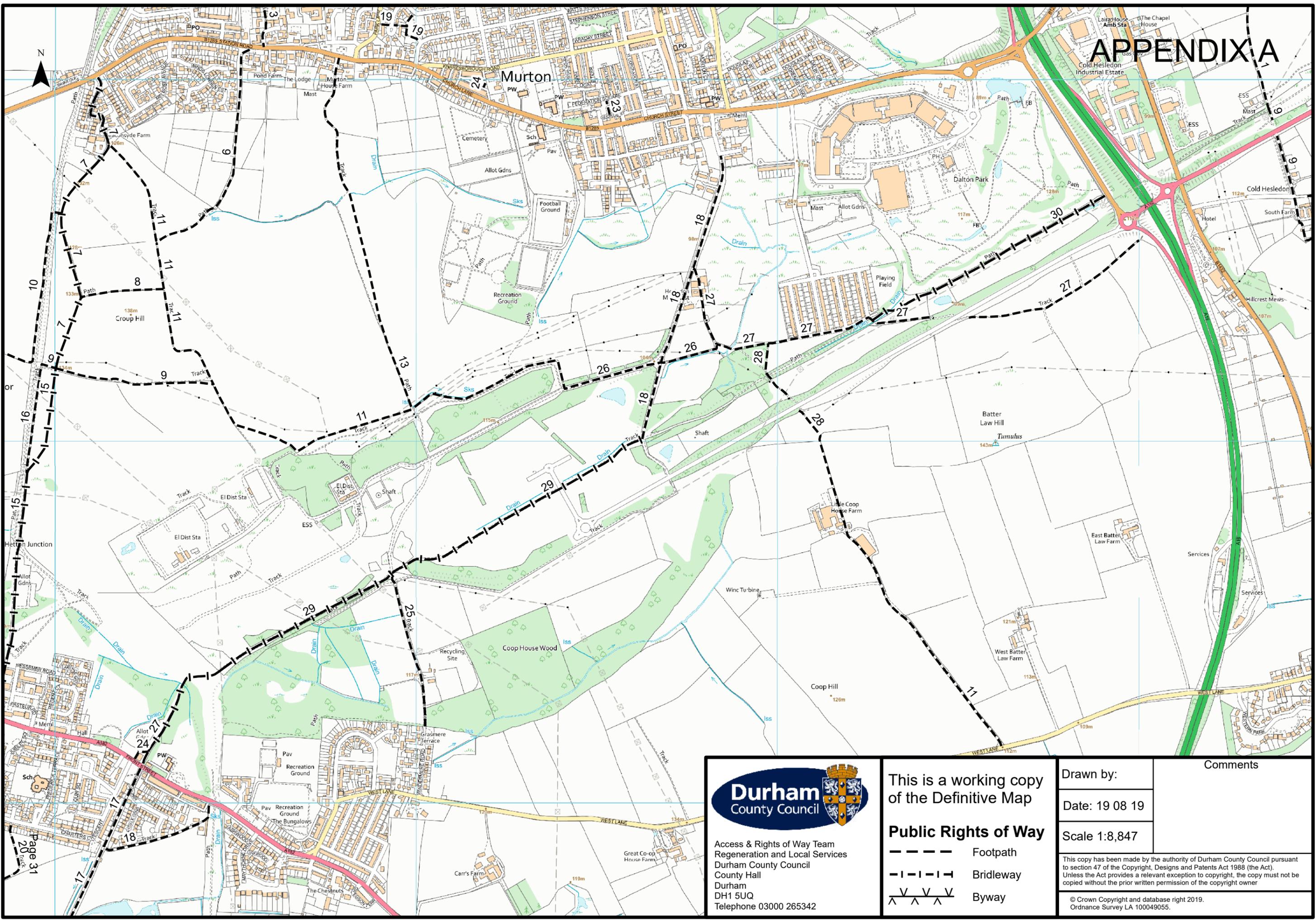
**Appendix 1: Implications**

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<b>Finance</b>	The applicant will cover the costs associated with this proposal as described in the report
<b>Staffing</b>	Part of routine officer responsibilities
<b>Risk</b>	Low
<b>Equality and Diversity / Public Sector Equality Duty</b>	N/A
<b>Accommodation</b>	None
<b>Crime and Disorder</b>	Not applicable
<b>Human Rights</b>	All those affected by the proposal will have the opportunity to submit objections and to present their case to an Inspector appointed by the Secretary of State for the Environment in the event of objection at the formal order making stage.
<b>Consultation</b>	As detailed in the report at paragraph 11
<b>Procurement</b>	None
<b>Disability Issues</b>	The unaffected paths offer routes which will be as accessible as the proposed extinguishment.
<b>Legal Implications</b>	The Order can be contested through a statutory process so a legal challenge is unlikely to be appropriate

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# APPENDIX A



Access & Rights of Way Team  
 Regeneration and Local Services  
 Durham County Council  
 County Hall  
 Durham  
 DH1 5UQ  
 Telephone 03000 265342

This is a working copy  
 of the Definitive Map

### Public Rights of Way

- Footpath
- |-|-| Bridleway
- ∇ ∇ ∇ Byway

Drawn by:  
 Date: 19 08 19  
 Scale 1:8,847

### Comments

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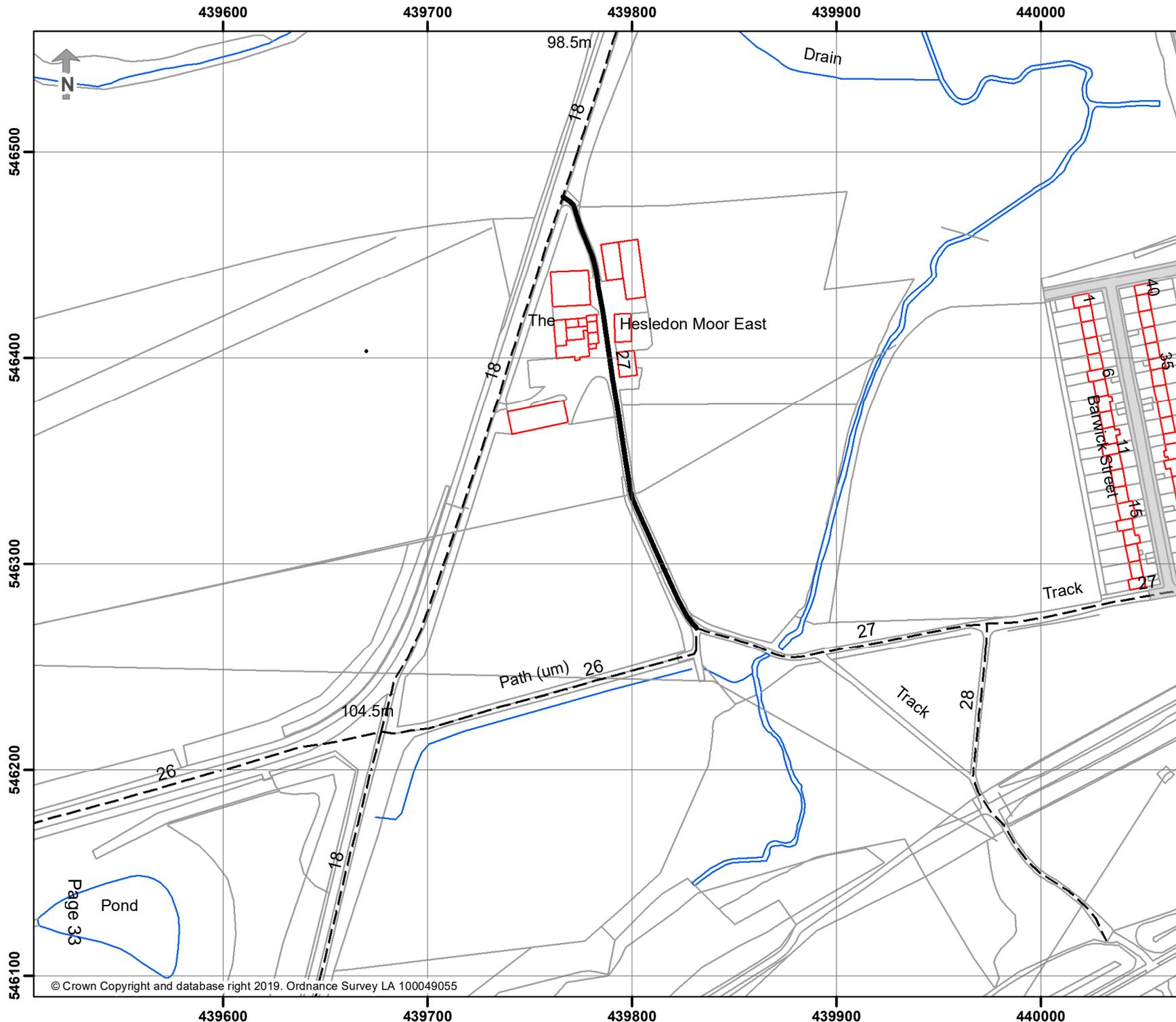
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 Ordnance Survey LA 100049055.

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# APPENDIX B



Ian Thompson  
Corporate Director  
Regeneration and Local Services  
Durham County Council  
County Hall  
Durham DH1 5UQ



## Proposed Extinguishment of part of Public Footpath no. 27 Murton Parish

Footpath to be extinguished

Scale 1: 2,500

Public Rights of Way / Highways not affected by the proposal

- Public Footpath
- Adopted Highway

Drawn: 27 February 2019

Postcode: SR7 9TP

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Contact: Owen Shaw  
Direct Tel: 03000 265 338  
email: owen.shaw@durham.gov.uk  
Your ref:  
Our ref: RED/NM/AROW/OS

Murton Parish Council

29 March 2019

Dear Murton Parish council

## **Highways Act 1980 Section 118**

### **Proposed Extinguishment of Public Footpath No. 27 Murton Parish**

I am considering a proposal under the provisions of Section 118 of the Highways Act 1980, to extinguish a section of the above-mentioned Public Right of Way, as shown on the enclosed plan.

The extinguishment is requested by the landowner as this section of footpath is not needed for public use due to an alternative route being available that leads to the same destination (Footpaths 26 and 18 Murton parish). The landowner is willing to work with Durham County Council to facilitate improvements to Footpath 26.

I would be pleased to receive any comments or objections you may wish to offer, within 30 days of the date of this letter. If there are no objections, the application may be determined by the Corporate Director of Resources in consultation with the Corporate Director of Regeneration and Local Services, and if there are objections, it will be determined by the Highways Committee. If you need more time to consider the matter please let me know.

Please note that if you do make representations, then by virtue of the Local Government (Access to Information) Act 1985, the County Council may make them available for public inspection. Additionally they may also be disclosable under the Freedom of Information Act 2000.

Yours sincerely,

Owen Shaw  
Rights of Way Officer

Durham County Council, County Hall, Durham DH1 5UQ  
Telephone: 03000 260000  
Regeneration and Local Services

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**From:** Robert Blackburn  
**Sent:** 06 April 2019 11:41  
**To:** Owen Shaw  
**Subject:** Re: Proposed Footpath Extinguishment, Murton Footpath 27

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

**Categories:** Green Category

Dear Owen

The Cleveland Ramblers Committee object to this proposal. The only possible alternative that might be acceptable to at least some of the committee might be a new path below the farm buildings and north parallel to path 26. The right of way through the buildings probably existed historically before the farm buildings, as many such paths do and it is the policy of the Ramblers to generally oppose such extinguishments. Please revert to me if I can be of further assistance.

Regards

Robert Blackburn

Cleveland Ramblers.

On Fri, Mar 29, 2019 at 11:35 AM Owen Shaw <[Owen.Shaw@durham.gov.uk](mailto:Owen.Shaw@durham.gov.uk)> wrote:

Dear Mr Blackburn,

I attach a consultation letter for a Proposed Extinguishment of Murton Footpath 27 through land at Hesledon Moor East Farm, Murton .

I look forward to hearing from you.

Kind regards

Owen

**Owen Shaw / Rights of Way Officer / Regeneration and Local Services / Durham  
County Council / County Hall / Durham / DH1 5UQ**

**Tel: 03000 265338**

[www.durham.gov.uk/prow](http://www.durham.gov.uk/prow)

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Robert J Blackburn