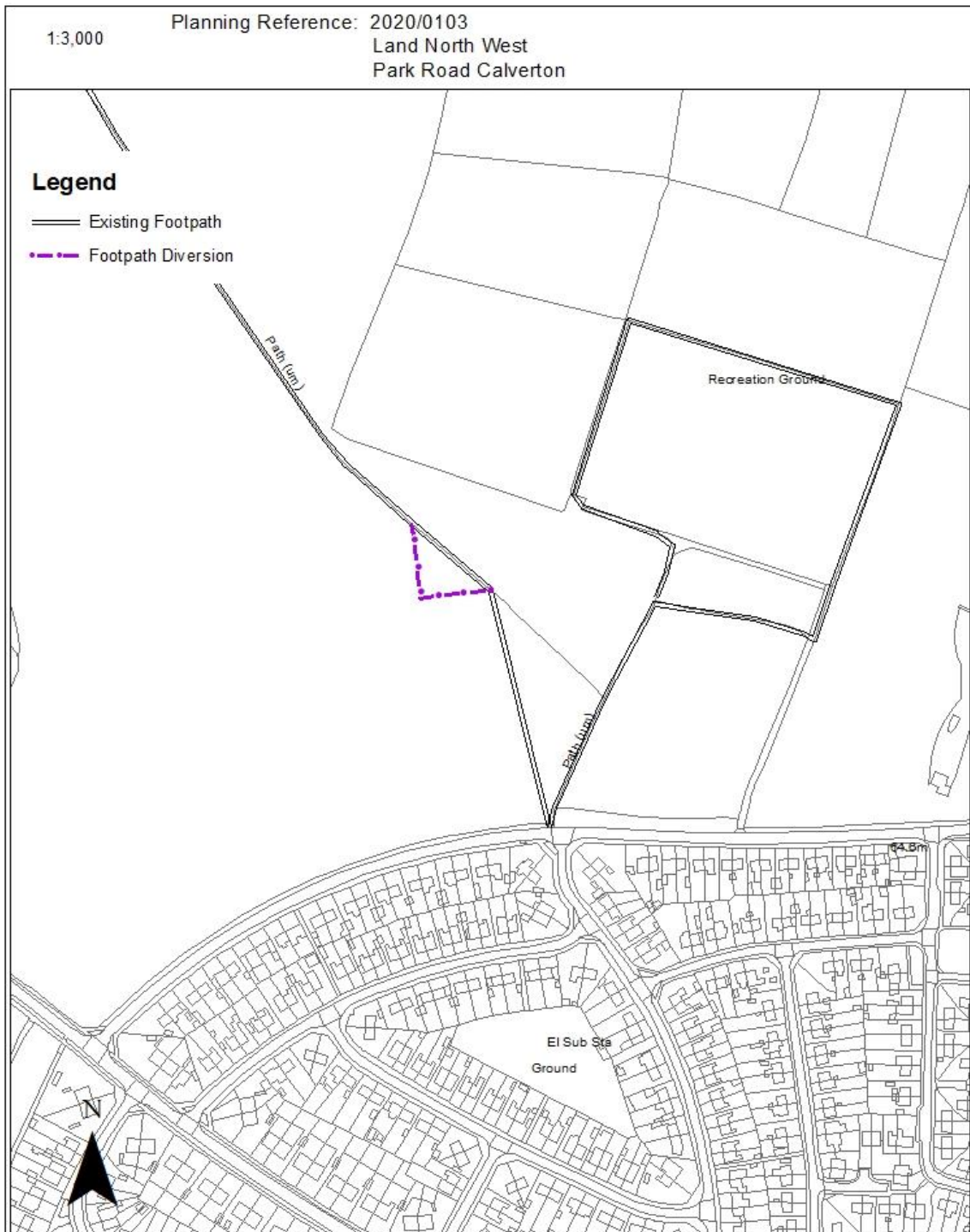




Planning Report for 2020/0103



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.
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Report to Planning Committee

Application Number:	2020/0103
Location:	Land north of Park Road, Calverton
Proposal:	Diversion of Calverton Footpath No. 39 for 90m (as per drawing ref CA-FD-01).
Applicant:	Persimmon Homes
Agent:	
Case Officer:	Nigel Bryan

1.0 Purpose of report

- 1.1 The application is before Planning Committee to seek authorisation to make an order to divert Calverton Footpath No. 39, off Park Road, Calverton, for a distance of some 90m. The application is made pursuant to Section 257(1A) of the Town and Country Planning Act 1990 (as amended), which allows for a footpath to be diverted provided it is necessary to enable development to be carried out in accordance with a valid planning permission.

2.0 Site description

- 2.1 The application site is an open field agricultural field and the public right of way links Park Road with land to the north. The stretch of path where the footway is to be diverted rises gently in a northerly direction.

3.0 Relevant planning history

- 3.1 Outline permission was granted under refer 2018/0607 for the erection of up to 365 dwellings, with all matters reserved except access, with access served from Park Road and Collyer Road.
- 3.2 A reserved matters application pursuant to outline permission 2018/0607 is currently under consideration by the Council under reference 2020/0020, and is for the erection of 351 dwellings covering layout, landscape, scale and appearance.

4.0 Proposed development

- 4.1 Calverton Footpath No. 39 crosses the development site subject to application 2020/0020. To facilitate the erection of a number of dwellings Calverton

Footpath No. 39 would need to be stopped up or diverted. It is proposed that the footpath is diverted for a distance of 90m. Currently the footpath heads directly north from Park Road before turning roughly 45-degrees in a north-westerly direction. It is proposed that the first section of the path where it goes in a north-westerly direction is altered in that it will go due west before heading due north to meet up again with the original line of the path on a 45-degree angle. The proposed new route is shown on drawing ref CA-FD-01 by bold green dashes.

- 4.2 As part of the original consultation on application 2020/0103 Calverton Parish Council confirmed that they raise no objection to the application and the Rights of Way Officer for the County Council raises no objection but would want the applicant to be aware that the footpath should be not less than 1m wide.

5.0 Planning considerations

- 5.1 Section 257(1A) of the Town and Country Planning Act 1990 states that a competent authority may by Order authorise the stopping up or diversion of any footpath if they are satisfied that it is necessary to do so in order to allow a development to be carried out in accordance with a planning permission. The procedure for doing so is set out in Schedule 14 of the Town and Country Planning Act. This includes the process for making an order, consultation and publication, dealing with representations and objections and confirmation.

- 5.2 Paragraph 7.15 of the 'Rights of way circular (01/09)' advises that in the making of an order for the diversion of a Public Right of Way to enable development:-

“The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order”.

- 5.3 Paragraph 7.8 of the circular explores what the determining authority should consider when determining an application:-

“In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic”.

- 5.4 The alteration to the path will have no discernible impact on the permeability of the site or footpath as a whole, which will have the same access points at Park Road and land to the north. Parts of the path will now run along a section of highway but the vast majority of the remainder of the path will pass through public open space and it is not considered there would be a detrimental impact on the enjoyment of people using the path in that the alternative is likely to be a narrow footway between residential gardens and what has been put forward is considered to be an acceptable solution. Furthermore, the highway along which it would run is not the main road through the site but one that would be used by a small number of residents. Taking into account the above it is recommended that the Director of Organisational Development and Democratic Services is authorised to make the diversion order as it is necessary to enable development to be carried out in accordance with a planning permission (if that planning application (ref: 2020/0020) is granted) and that it complies with relevant guidance within circular 01/09.
- 5.5 If Members are minded to approve the making of an order divert the footpath, the Council will then look to undertake relevant consultation with statutory consultees and interested parties, erect a site notice at each end of the footpath and advertise the making of the order in a local newspaper. If after the statutory consultation period of 28 days has passed, and there are no outstanding objections to the making of the order, it is proposed that authority is given to the Director of Organisational Development and Democratic Services, without additional reference back to the Planning Committee, to confirm the order. However, if any objections to the making of the order remain unresolved, the matter would then need to be referred to the Secretary of State for determination.

Recommendation: That Members authorise the Director of Organisational Development and Democratic Services to make an order under s257(1A) of the Town and Country Planning Act 1990 (as amended) to divert Calverton Footpath No. 39 for a distance of 90m as per drawing ref CA-FD-01, carry out the procedure under Schedule 14 of the Town and Country Planning Act 1990 for confirmation of the order and, following consultation and publication, to confirm the order if there are no outstanding objections to the order. However, if there are outstanding objections, the matter be referred to the Secretary of State for determination.