

Report to	Planning Committee
Date	14 February 2019
By	Director of Planning
Local Authority	Horsham District Council
Application Number	SDNP/18/05278/FTP
Applicant	Mr Richard Goring
Application	Diversion of Bridleway 2086
Address	Bridleway 2086, North Farm, London Road (A24), Washington, West Sussex, RH20 4BB

Recommendation:

- 1. That an order under Section 257 of the Town and Country Planning Act 1990 for the diversion of Public Bridleway number 2086, as shown on the plan appended to this report, be made and the statutory 28-day consultation be undertaken;**
- 2. That authority be delegated to the Director of Planning to confirm an unopposed order or to submit an opposed order to the Secretary of State for decision.**

Executive Summary

An application to divert part of Bridleway No: 2086 has been submitted under Section 257 of the Town and Country Planning Act (TCPA) 1990. This is associated with planning application SDNP/18/04995/FUL at North Farm, London Road, Washington, which is being considered at Agenda Item 9 of this Planning Committee meeting.

Section 257 of the TCPA 1990 gives Local Planning Authorities (LPAs) power to authorise the stopping up or diversion of any footpaths, bridleways or restricted byways where they are satisfied that it is necessary to enable development to be carried out. The stopping up or diversion of a Bridleway is a separate legal process to the determination of any planning application and requires a legal order is made (and confirmed) to enable the proposed diversion to take place.

The recommendation is that an order to divert part of the Bridleway is made and the formal statutory consultation be undertaken. If following that consultation no objections are received, the recommendation is that the order is confirmed, if objections are received the recommendation is that the order is submitted to the Secretary of State for a decision.

This application is placed before the Committee due to its relevance to application SDNP/18/04995/FUL which is being considered at Agenda Item 9 at this Planning Committee

meeting along with the objections and comments received as part of the informal consultation carried out on the proposed diversion.

1. Introduction

- 1.1 An application to divert part of Bridleway no. 2086 has been submitted in response to planning application SDNP/18/04995/FUL at North Farm, Washington. This hybrid planning application (part full / part outline) is being considered at Agenda Item 9 of the 14 February 2019 Planning Committee meeting and is seeking permission to create a rural business park, anchored by the Wiston Estate Winery.
- 1.2 The diversion has been proposed to enable the development to be built in full in the event planning permission is granted. The proposed layout of the development at North Farm shows the proposed bund and associated landscaping would obstruct a portion of the designated route as indicated at **Appendix 2**.
- 1.3 This application has been submitted under Section 257 of the TCPA 1990. It provides LPAs with the power to authorise the stopping up or diversion of any footpaths, bridleways or restricted byways where they are satisfied that it is necessary to enable development to be carried out in accordance with a planning permission.
- 1.4 This diversion application has been subject to an informal consultation, see Section 4 of this report for the detailed comments received.

2. Site Description and Proposal

- 2.1 North Farm is located on the western edge of the Wiston Estate and is approximately 1.3km north of Findon and 2km south of Washington. It is bounded by the A24 dual carriageway along its western edge, with the grade separated junction (overbridge) located immediately to the south.
- 2.2 The North Farm site comprises a collection of buildings ranging from the traditional farmstead dating back to the 18th and 19th centuries at the centre and charting the evolution of the farm through to an extensive turkey rearing and processing enterprise that ceased in the 1980s. The site is now predominantly used in association with the Wiston Estate Winery, with other independent commercial uses, including a livery. There are also several dwellings (owned by the Estate) within the site.
- 2.3 There are currently 2no. vehicular access points to the site; one from the overbridge to the south and the other directly from the A24 to the west. Bridleway No: 2086, which links the site to the northern edges of Findon village and connects with the wider PRow network on the western side of the A24 (via an 'at grade' uncontrolled crossing) accesses the site via this latter vehicular entrance. This route is shown in Appendix 3 (solid black line).
- 2.4 The proposed redevelopment of North Farm, subject to the planning application SDNP/18/04995/FUL, seeks the closure of the existing vehicular access to the site from the A24 and the creation of a bund. That bund would physically stop up the access, provide increased habitat connectivity through planting and the material within the gabion wall, and provide an acoustic screening for the site from the A24. It is this development which has an impact on the existing Bridleway No: 2086.
- 2.5 Therefore, this application is seeking to divert part of Bridleway No: 2086 along the route through the Farm (approximately 230 metres) as shown in Appendix 3 (dashed black line), by relocating the access to the site from the A24 approximately 25m to the north (point G) around a retained pole barn within the site and through the historic farmstead (between points C and D) before heading eastwards along an existing access track (proposed to be resurfaced as part of the associated planning application) to meet the existing route of the

Bridleway at point A. The new route would be approximately 250 metres in length, approximately 20 metres longer than the existing route.

3. Relevant Planning History

- 3.1 SDNP/18/04995/FUL - Hybrid application (Part Full/Part Outline) for demolition of existing equestrian and agricultural buildings. Change of use of existing buildings and extension of existing Winery to provide enhanced storage, visitor facilities, retail and Cafe. New commercial floorspace (Use Classes B1 and B8), five self-contained holiday let units, closure of existing direct access off the A24 with associated alterations to internal roads. Provision of new permissive Public Right of Way, associated infrastructure, car parking (including single domestic garage) and landscaping works. To be considered at Planning Committee on 14 February 2019.

4. Consultations

- 4.1 It is not a statutory requirement to undertake a formal consultation at this stage. This must take place once an order has been made. However, an 'informal consultation' (letters were sent out to interested parties) has been undertaken and the following comments have been provided.
- 4.2 Washington Parish Council: **No objection**
- 4.3 Horsham District Council: **No comments to make in respect of the application.**
- 4.4 West Sussex County Council - Highways: **No objection**
- 4.5 West Sussex County Council – Rights of Way: **Holding objection**
- Path width requirement is 3m minimum.
 - Proposed **gates would be subject to Highway Authority Consent.**
 - Proposals should take account of the wider path network and the potential to make a bridleway connection to the nearby overbridge to provide a safe crossing of the A24. There are implications to consider such as the connection from the western side of the overbridge to Bridleway No. 2283, the question of retention of the existing road crossing and access to the bus stop. Entering a holding objection will allow discussion with planning officers and landowners and further consideration of this possible improvement to the network to take place.
- 4.6 Southern Gas Networks: **Gas pipe locations are available online at www.linsearchbeforeudig.co.uk – search confirms none affected by proposed diversion.**
- 4.7 SDNPA Access and Recreation: **No objection**
- 4.8 British Horse Society: **Holding objection**
- Note width of path now widened to 3m.
 - Note applicant confirms that consent will be sought using standard WSCC process for erection of any gates.
 - Still of the opinion that the proposed development (which we do not object to in principle) will have an adverse impact on equestrian use of this section of bridleway within North Farm (busy environment within the Farm will undoubtedly become intimidating for riders).

5. Legislative Background and Procedure

- 5.1 Section 257(1) of the TCPA 1990 gives LPAs the power to make an order to extinguish or divert public footpaths, bridleways or restricted byways (PRoW), where they are satisfied that it is necessary in order to enable the development to be carried out either in accordance with a planning permission.
- 5.2 This is a distinct and separate legal process to stopping up or diversion through the Highways Act, where additional criteria can be taken into consideration.
- 5.3 Before an order can be made by an LPA under Section 257 of the TCPA 1990, it must be apparent that there is a conflict between the development and the PRoW, such as an obstruction. An order may be made in anticipation of a planning permission being granted, however it cannot be confirmed by either the LPA or Secretary of State until that permission has been granted. A planning permission does not entitle applicants to divert a PRoW until an order has been confirmed.
- 5.4 When an order to divert a PRoW is made, the diversion must commence and terminate at some point on the definitive line of the original way so as the public, where appropriate, can return to the original way not affected by the development. The LPA should also give consideration to any necessary works required to bring the new route into use.
- 5.5 When an application is received, best practice advises that informal consultation on the proposals is undertaken before deciding whether to make an order. Such consultations invite the views of consultees and with the appropriate parish council, user groups and local and county councils to gauge views and identify particular concerns. This is not a formal consultation nor is it a statutory requirement.
- 5.6 Following an initial consultation, the LPA must consider whether to make an order for the diversion of a PRoW. Government guidance suggests that this consideration should include weighing up the disadvantages or loss likely to arise as a result of the diversion to members of the public or whose properties adjoin or are near the existing PRoW against the advantages of the proposed order.
- 5.7 Once an order is made, site notices advertising details of the order are to be posted at both ends of the affected section of the PRoW. Similar notices are published in at least one local newspaper and a formal consultation period of 28 days is undertaken.
- 5.8 If at the end of the 28 day period no objections have been received or if any objections are subsequently resolved and withdrawn, the LPA may confirm the order without modification. If there are objections which cannot be withdrawn, the LPA must refer the order to the Secretary of State for a decision.
- 5.9 The Secretary of State would determine whether to confirm the order with or without modifications via either written representations, an informal hearing or a Public Inquiry.

6. Consideration of the Application

- 6.1 The proposed development would obstruct a proportion of the designated route as shown in **Appendix 2**. In order for the development to be implemented in full it would be necessary to divert the Bridleway, as the grant of planning permission does not entitle applicants to obstruct a PRoW. Therefore, it is considered that the diversion is necessary in accordance with S257 of the TCPA 1990 and if the planning permission (SDNP/18/04995/FUL) is granted, the LPA must have good reasons to justify a decision not to make or confirm an order.
- 6.2 In determining the proposed diversion, consideration turns to whether there would be any disadvantages or loss arising from the proposed diversion to members of the public or

whose properties which adjoin or are near the existing PRoW and whether those disadvantages are outweighed by the advantages.

- 6.3 It is considered there would be no disadvantages or any loss likely to arise as a result of the diversion. In fact, it is considered that the diversion would improve the experience of users of the route as they would be directed away from the A24 at an earlier point, entering the more traffic controlled environment of the site immediately once the A24 has been crossed.
- 6.4 The proposed diversion would also limit interaction with motorised traffic at the point of entrance into the site and would also formalise the route of the right of way many users currently take within the site given the presence of several existing obstructions (parts of the existing route are currently impassable due to buildings and other structures having been constructed on the route over a number of years - between points B and Y, see Appendix 3). Whilst the diverted route would be approximately 20m longer, this is relatively small and such an addition would not cause any disadvantage to users of this route and the wider PRoW network.
- 6.5 The existing route of the Bridleway also already interacts with residential properties within North Farm Estate and it is considered that the proposed diversion would have a negligible impact on these properties, formally passing on the southern side of the Farmhouse. The mix of uses currently operating from North Farm are not changing substantially (save for the loss of the livery and introduction of holiday accommodation). The proposed diversion is not a creating a significant realignment of the PRoW, it would provide a PRoW in a more organised setting through the North Farm Estate, including a clearer delineated path for users of the PRoW. It is therefore considered there would be no adverse impact on the amenities of the existing properties or to users, including equestrians, of the right of way.
- 6.6 The applicant has responded to original concerns raised by both WSCC Rights of Way Officer (WSCC) and the British Horse Society (BHS), and agreed to increase the surfaced width of the diversion between points E and G to 3 metres (see **Appendix 3**). They have also confirmed that the relevant consent from the Highway Authority would be sought for any gates proposed on the diverted Bridleway, prior to their installation. These technical details associated with the diversion are considered to be acceptable and appropriate.
- 6.7 The remaining point of concern raised by both WSCC and the BHS relates to the improvement of the RoW network outside of the application site and the applicant's land ownership. Both WSCC and BHS suggest that the Bridleway should be diverted along the western edge of the A24 and across the overbridge, to enter the site via the vehicular access to the south (see **Appendix 4**). The route would then follow the existing access drive north, to join the Bridleway network at point A (**Appendix 4**). It is noted that this diversion was originally proposed in 1997, but it was never formalised and dedicated by WSCC as an alternative Bridleway.
- 6.8 Both officers and the applicant wholeheartedly appreciate the benefits of preventing Bridleway users from having to cross the A24 'at grade', and have continued to express a desire to work with both WSCC Rights of Way team and all the landowners affected by this proposal to secure such an alternative. However, such an alternative is not wholly within the applicant's control to deliver and it is not considered necessary in order for the development sought by planning application SDNP/18/04995/FUL to be implemented.
- 6.9 The applicant has agreed to continue to work on this alternative diversion in parallel to the proposed diversion (this application) and the planning application.
- 6.10 In conclusion, it is considered necessary to divert part of the Bridleway No: 2086 to enable the development proposed under planning application SDNP/18/04995/FUL, if granted permission and that such a diversion would not create disadvantages to users of the route or those properties which adjoin or are near to the existing route and the diversion is in

accordance with S257 of the TPCA 1990. Whilst the desire to create a wider diversion of the RoW network is acknowledged, it is considered it would be unreasonable to delay the current diversion application and proposed development at the North Farm Estate whilst these discussions (including with other 3rd parties) are on-going.

7. Recommendation

7.1 It is recommended that an order is made under S257 of TCPA 1990 for the diversion of part of Bridleway No: 2086, subject to planning permission being granted for Agenda Item 9. If, after making the order, objections are received that cannot be resolved, authority will be delegated to the Director of Planning to submit to the Secretary of State for a decision. If no objections are received to the made order, authority will be delegated to the Director of Planning to confirm the order.

8. Crime and Disorder Implication

8.1 It is considered that the proposal does not raise any crime and disorder implications.

9. Human Rights Implications

9.1 This application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

10. Equality Act 2010

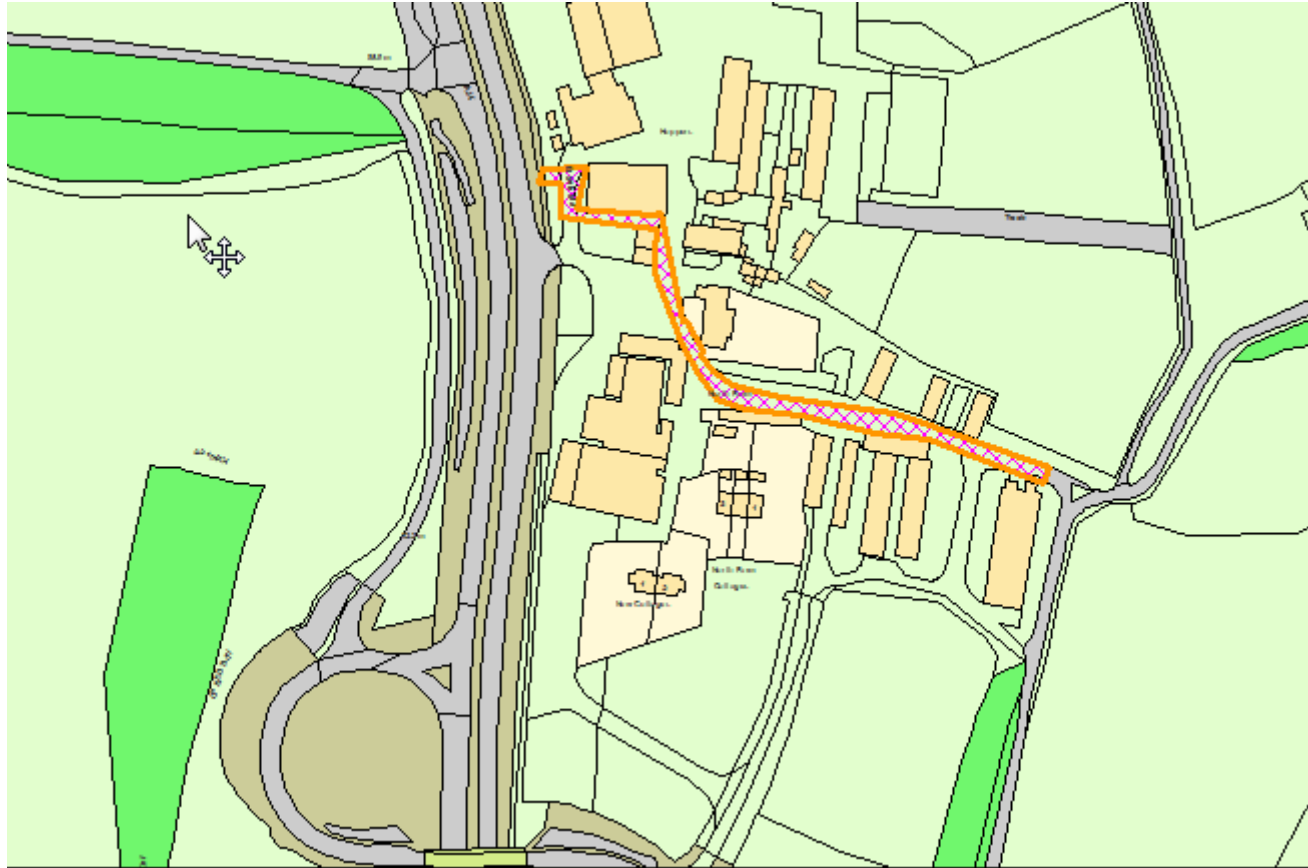
10.1 Due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010.

11. Proactive Working

11.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF.

Tim Slaney
Director of Planning
South Downs National Park Authority

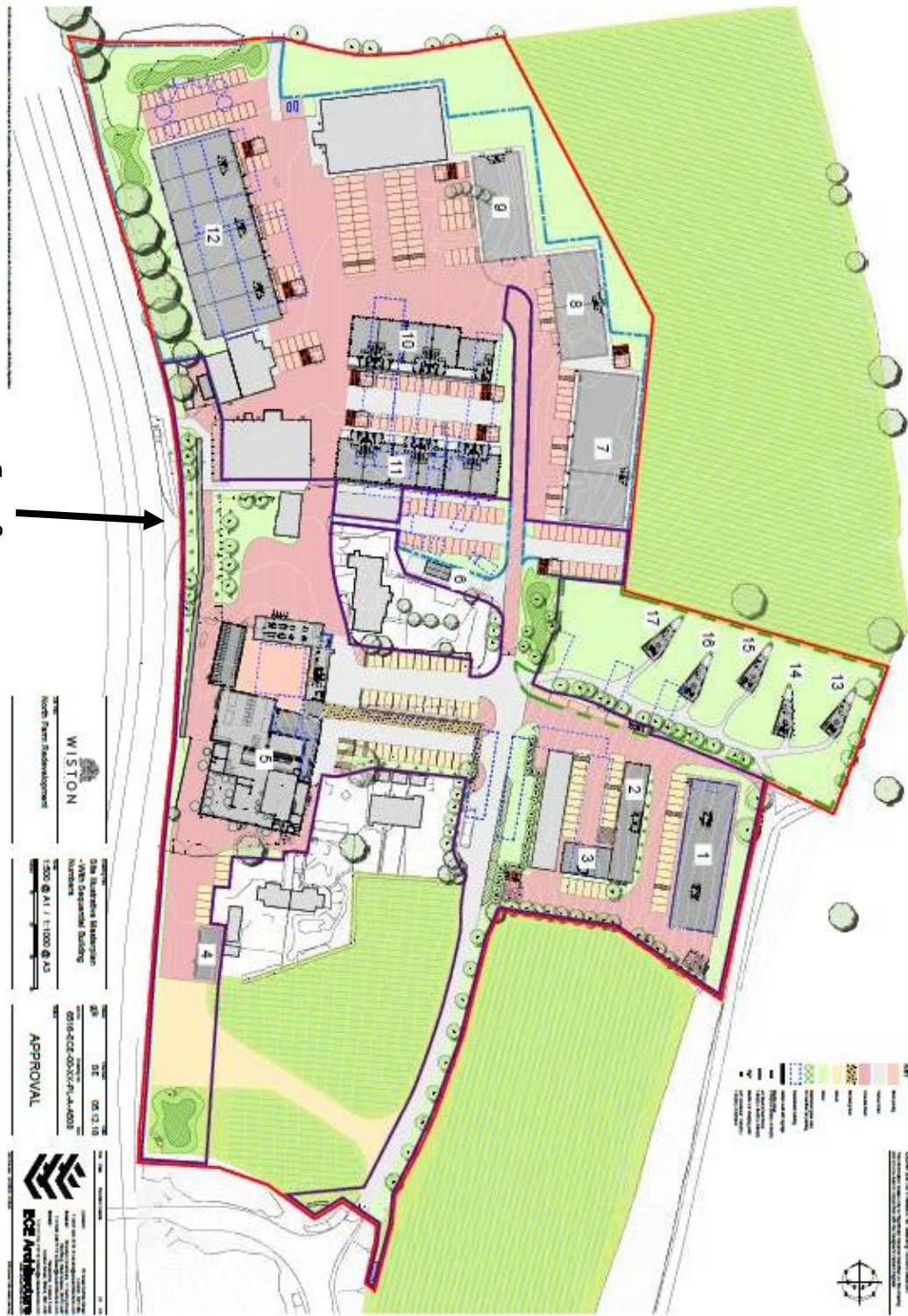
Contact Officer:	Vicki Colwell
Tel:	01730 819280
email:	vicki.colwell@southdowns.gov.uk
Appendices	<ol style="list-style-type: none">1. Site Location Map2. Proposed Development Site Plan (SDNP/18/04995/FUL)3. Proposed Diversion Route4. Proposed route of 1997 Diversion (unimplemented)
SDNPA Consultees	Legal Services & Major Planning Projects and Performance Manager
Background Documents	All application plans, supporting documents and consultation responses



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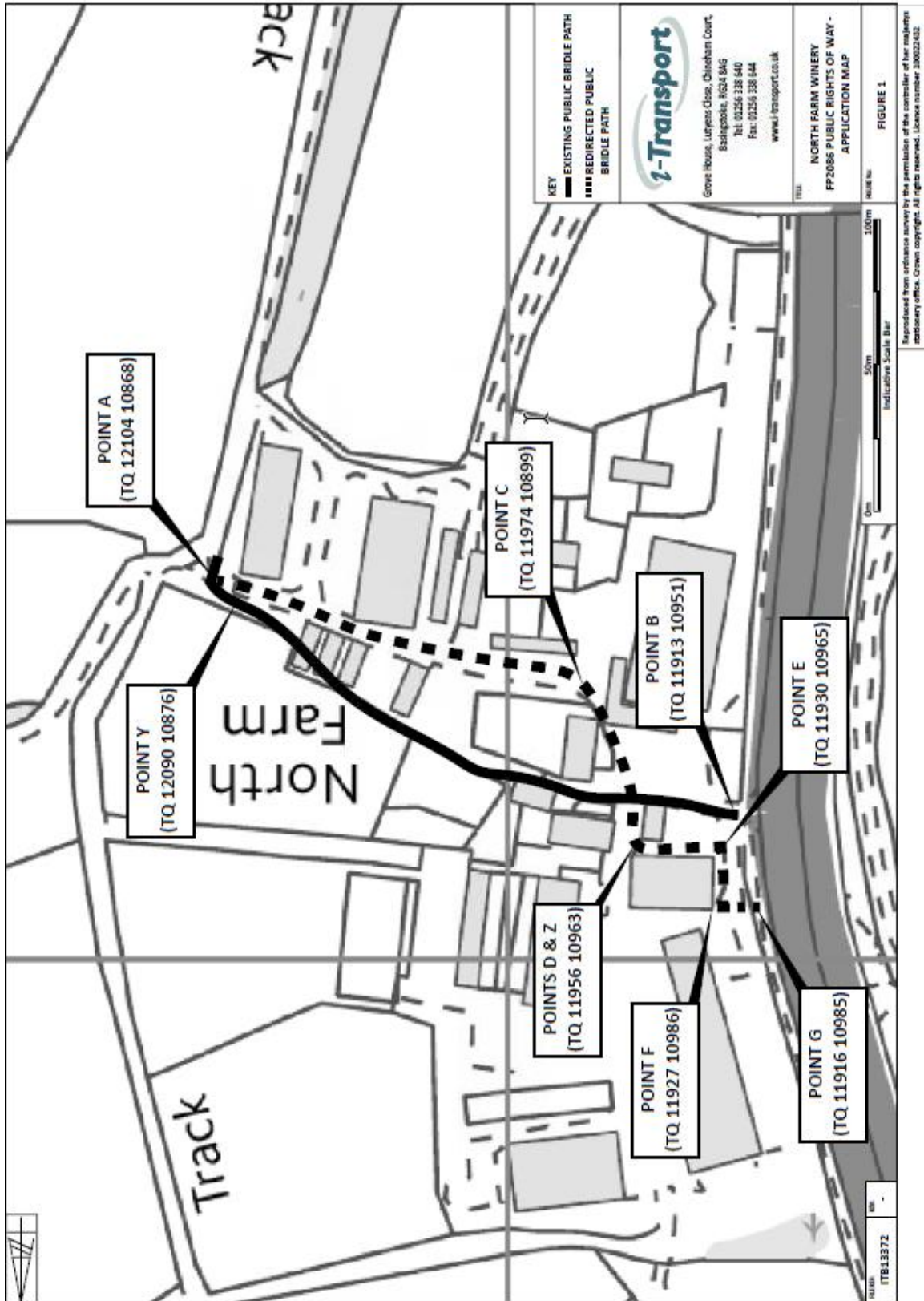
Agenda Item 10 Report PC08/19 Appendix 2
Proposed Development

Access from
the A24
proposed to
be closed



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Agenda Item 10 Report PC08/19 Appendix 3
Proposed Diversion Route



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**Agenda Item 10 Report PC08/19 Appendix 4
Proposed route of 1997 Diversion (unimplemented)**

