

24/01962/FP at Land adjacent to Red Brick Cottage, Kelshall

Written update to Planning Control Committee on 3rd December 2024:

At the time of writing (Monday 2nd December 2024), there are the following updates for members since the publication of the agenda and reports pack for Planning Control Committee.

- 1) On the matter relating to the proposed development and its impact on the existing Public Right of Way (PRoW) through the site, Hertfordshire County Council's Public Right of Way Department were formally consulted on this application and provided a formal response, as set out under part 3.5 of the Officer report. HCC deal with footpath diversions under the Highways Act.
- 2) The impact of the proposed development on the PRoW is addressed in full at sections 4.3.32 to 4.3.35 of the Officer report, largely in accordance with the HCC PRoW formal comments, in regard to the requirement for a footpath diversion and ideal characteristics of the proposed diverted route.
- 3) However, the North Herts Council Technical Project Officer who also deals with applications for PRoW diversions under the Town and County Planning Act (section 257) has provided formal comments on this application. These comments are available on the Councils website and are appended to this update for ease, which notably includes a recommended condition that deals with the footpath diversion application.
- 4) As set out in the Officer report, it is reiterated that whilst the diversion or stopping up of footpaths is a separate process to planning control and it cannot be assumed that because planning permission is granted that an Order under S257 will be confirmed, a pre-commencement condition is recommended to ensure that this process takes the necessary initial steps. The agent has had sight of the proposed condition and has formally agreed to it. It is therefore recommended that the proposed condition be included in the recommendation to members of the Planning Committee, which would be condition 12.

My reference: Kelshall Footpath 007

Your reference: 24/01962/FP

Date: 29/11/2024

Contact: mark.hindmarch@north-herts.gov.uk

Proposal: Land adjacent to Red Brick Cottage, Kelshall.

Dear Alex.

Thank you for consulting me regarding the proposed new dwelling on land adjacent to Red Brick Cottage, Kelshall.

The site currently is crossed by the Public Footpath Kelshall FP 007. The orientation of the proposed dwelling is such that it's footprint would be built across the line of the footpath and therefore require diversion to re-route around the field edge.

Town and Country Planning Act 1990 section 257 allows for a competent authority to authorise the stopping up or diversion of any public right of way if they are satisfied that it is necessary in order for development to be carried out.

In the case of planning application 24/01962/FP, the new dwelling could not reasonably be built on any other portion of the land without immediately affecting the definitive line of FP 007.

Therefore, the test is proven that the footpath requires diversion to enable development to be carried out. I consider that there is no objection to the planning application on these grounds.

A condition must be placed on the decision notice to protect the current line of the footpath and accordance that an application to divert the current footpath is submitted to the Local Planning Authority.

“Prior to the commencement of the works hereby granted a footpath diversion order shall have been applied for to the Local Planning Authority under the Town and County Planning Act 1990 Section 257 and a temporary diversion/stopping up order granted by the Hertfordshire County Council Public Rights of Way department. At no point shall the public footpath be blocked or access impeded until such time as both the above criteria are satisfied. Guidance on the application can be found at <https://www.north-herts.gov.uk/public-footpath-diversions> or by contacting the officer delegated on 01462 474431.”

Reason: To ensure that the route of the public footpath remains open for use by members of the public at all times . To comply with Policy D1 of the North Herts

Kind regards

Mark Hindmarch

Technical Project Officer 01462 474431