

Diversion of Public Path at Bilston**Report by Ricky Moffat, Head of Commercial Operations****1 Purpose of Report**

The purpose of this report is to seek approval to progress with a public path diversion order under the Countryside (Scotland) Act 1967 for an existing path crossing the site of the housing development in Bilston (path shown in Appendix A).

2 Background

- 2.1** The Council's Register of Believed Rights of Way shows a path (Right of Way No 36) starting at Seafield Road then running north past the property known as Monklands leading into agricultural fields and terminating at Old Pentland. (The route is also listed in the Scottish Rights of Ways Society's Catalogue of Rights of Way as LM 123).
- 2.2** The developer Taylor Wimpey is seeking a minor diversion to the route that accommodates the development footprint while still providing access between the two points without undue change to the function of the route.

3 Report Implications

Part of the existing path requires to be diverted to accord with the footprint of the site and will be replaced by a footway adjacent to the carriageway within the new development.

The replacement path will not be available for use until the housing development is sufficiently complete to allow pedestrian access. In the interim a temporary path is in place allowing the construction of the development to proceed. This temporary path will remain in place until the housing development reaches a stage when the permanent diversion can be put in place.

The process for undertaking the order is as follows:-

- 1 Preparation of the Order and plans.
- 2 Serve notice of Order on owners, occupiers and tenants affected by the proposal.
- 3 Erect notice at either end of section of path to be diverted and advertise notice of proposed Order in the Midlothian Advertiser and Edinburgh Gazette allowing a 28 day period for objections.

- 4 If there are no objections, or any objections are withdrawn after consultation, the order will be confirmed by reporting to Cabinet.
- 5 If there are objections which are not withdrawn the proposed Order must be referred to the Scottish Ministers for confirmation. (This may require a Public Inquiry).
- 6 Upon confirmation, by the Council or the Scottish Ministers, advertise notice of coming into operation of Order. The public will then have 6 weeks to appeal to the Court of Session on a point of law/procedure.
- 7 After 6 weeks, register Order in Land Register and update the Midlothian Council Core Paths Plan to reflect the position.

3.1 Resource

Taylor Wimpey has agreed to pay the Council's reasonable costs and outlays.

The changes to the existing Core Path Plan will be met out of the existing Resources Directorate budget.

3.2 Risk

The risk rests largely with the developer whereby if objections are raised over the proposed diversion these could create a significant delay to the project.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☒ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☒ Improving opportunities in Midlothian
- ☒ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

3.4 Key Priorities within the Single Midlothian Plan

This report supports the key priorities from the Single Midlothian Plan within the following areas:-

- Economic recovery and growth
- Employment
- Community Planning

3.5 Impact on Performance and Outcomes

n/a

3.6 Adopting a Preventative Approach

n/a

3.7 Involving Communities and Other Stakeholders

This development at Bilston is set out in the Midlothian Local Plan and is an important expansion to the village of Bilston.

3.8 Ensuring Equalities

There are no impacts upon equalities.

3.9 Supporting Sustainable Development

Sections of the diverted path will be within the housing development and will be used much more by pedestrians than has been the case to date therefore providing the community with a more sustainable solution for the future.

3.10 IT Issues

There are no IT issues.

4 Recommendations

Council is recommended to:-

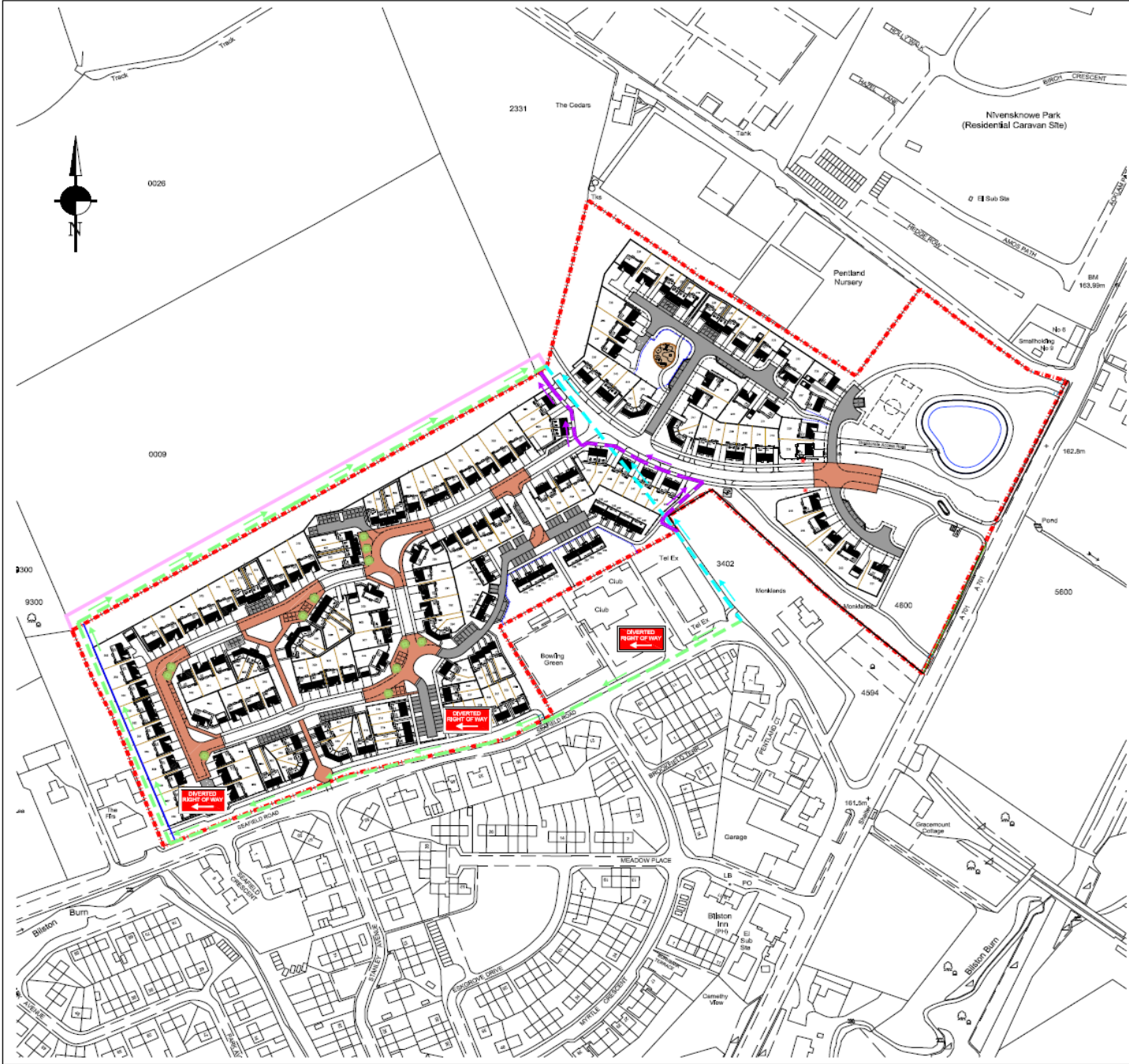
- a) Instruct the Director, Resources to progress with the Diversion Order in line with the process described under item 2.

5 May 2014

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Background Papers:



NOTES:

- KEY:
- SITE BOUNDARY
 - EXISTING RIGHT OF WAY
 - PROPOSED TEMPORARY DIVERTED RIGHT OF WAY
 - PROPOSED DIVERTED RIGHT OF WAY
 - SITE FENCING ENCLOSURE
 - TEMPORARY FENCE (MINIMUM 3 MONTHS THEREAFTER TO REVERT TO TAYLOR WIMPEY SITE)

 PUBLIC SIGNAGE

REV	DATE	DRAWN	DESCRIPTION

DRAWN : C.H DATE : MAY'12 SCALE : 1:2500

SITE
BILSTON, MIDLOTHIAN

TITLE
PROPOSED DIVERTED RIGHT OF WAY

Taylor Wimpey East Scotland
1 Masterton Park
Carnegie Campus
Dunfermline
KY11 8PL
T 01383 845 700
F 01383 845 725



CONSTRUCTION	REG	DRAWING NUMBER	REV
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