

To: South Cambridgeshire District Council – Planning
From: James Stringer, Asset Information Definitive Map Officer
Ref: P103
Date: 13th April 2021

Report on the proposed diversion of Cambourne Public Footpath No. 7

1 Purpose

- 1.1 To report on the proposed diversion of Public Footpath No. 7 in the parish of Cambourne.
- 1.2 Appendix **A** comprises a copy of the agent's application. Appendix **B** includes a copy of the relevant planning application decision notice and site plan. Appendix **C** is a copy of the memorandum of agreement between Cambridgeshire County Council and South Cambridgeshire District Council. A map showing the effect of the proposals is at Appendix **D**. Consultation responses received by the County Council can be found at Appendix **E**. The NMU Diversion Policy Matrix can be found at Appendix **F**. A copy of the delegated decision taken by the County Council's Assistant Director: Highways can be found at Appendix **G**.

2 Background

- 2.1 An application has been received by Randell Thorp on behalf of the landowner, Cambourne West Consortium, for the diversion of Cambourne Public Footpath No. 7. The application to divert the footpath falls to be determined by the relevant planning authority under section 257 of the Town and Country Planning Act 1990. A copy of this Public Path Order application is attached at Appendix **A**.
- 2.2 The landowner considers that a diversion order is necessary in order to implement the approved development of Cambourne West under outline permission S/2903/14/OL and the reserved matters application for the strategic landscaping for phase one under permission S/4161/19/RM (see Appendix **B**).
- 2.3 In February 2007, South Cambridgeshire District Council entered into an Agreement with Cambridgeshire County Council providing that all Public Path Diversion Order applications under section 257 of the Town and Country Planning Act 1990 should be processed by the County Council, acting as agents for the District Council. A copy of the Agreement explaining the procedure is attached at Appendix **C**.
- 2.4 The application for a Public Path Order was made to Cambridgeshire County Council on the 6th December 2019. A map showing the effect of the proposal is at Appendix **D**.

- 2.5 Public Footpath No. 7 was first recorded on the Definitive Map and Statement (the legal record of Public Rights of Way) for the former county of Cambridgeshire in 1952. At this time, it fell within the parish boundaries of Caxton. The footpath provided a connection between Ermine Street (A1198) and Swansley Wood Farm.
- 2.6 The path historically terminated at Swansley Wood Farm with no onward public access to Cambridge Road (now A428). The path has therefore been a 'dead-end' route since its first recording on the 1952 Definitive Map and Statement. The new termination point is located approximately 165 metres south from the previous termination point. It is not considered that any alternative provision is necessary to reach Swansley Wood Farm.
- 2.7 Following The South Cambridgeshire District Council (Reorganisation of Community Governance) Order 2017, this path now falls within the parish boundaries of Cambourne.

3 Site Description

Existing public footpath (A-B)

- 3.1 The existing footpath starts at Ermine Street (A1198) at OSGR TL 2999 5964 (Point A on the plan shown at Appendix D) and proceeds in a generally north-easterly direction cross-field for a distance of approximately 729 metres to a point on the south-western corner of Swansley Wood Farm at OSGR TL 3047 6018 (Point B). The total length of existing public footpath is 729m.
- 3.2 There is an existing timber footbridge crossing a ditch adjacent to the A1198 at Point A. This is maintained by the County Council's Structures Team. The path is currently signed from Point A.
- 3.3 There are no other gaps, gates, stiles or any other highway structures (i.e. culverts or steps) on the existing route.
- 3.4 The footpath is currently subject to a Temporary Traffic Regulation Order (TTRO) to close the route while groundworks commence for the Cambourne West development. The TTRO is in effect until 30th April 2021. The path is no longer physically defined on the ground because of ongoing groundworks at Cambourne West.
- 3.5 The footpath does not have a recorded width in the Definitive Statement. The land over which the existing route runs is not covered by any protected designation. This land forms part of an allocated "Strategic Site" for major housing development by South Cambridgeshire District Council's Local Plan.
- 3.6 The footpath is maintainable at public expense by the County Council, as Highway Authority. However, the path ran over an arable field and therefore much of the past

responsibility was with the landowner to ensure that crops were cleared from the route and the surface is reinstated after ploughing.

- 3.7 The existing footpath egresses onto the A1198 where vehicles are approaching a roundabout. The A1198 is a heavily used A-road providing strategic connections between Royston, Cambourne, the A14, Godmanchester and St Ives. There is no footway provision along the A1198, however there is a wide verge and visibility along the carriageway.

Proposed public footpath (C-D-E-F-G)

- 3.8 The proposed path would commence from a newly constructed roundabout at OSGR TL 3010 5959 (Point C) and proceed in a generally but varying north-north-westerly direction for 289 metres to a point at OSGR TL 2996 5982 (Point D), then east-north-easterly direction for 232 metres where it will meet a newly constructed carriageway at OSGR TL 3018 5987 (Point E). The path then continues in a varying northerly then north-easterly direction for 303 metres to a point at OSGR TL 3035 6006 (Point F). The path continues in a south-easterly direction for 26 metres to meet a proposed adoptable cycleway at OSGR TL 3038 6005 (Point G).
- 3.9 The total length of the proposed path is 849m.
- 3.10 The proposed path would terminate at a proposed cycleway which is to be offered to the County Council for adoption under Section 38 of the Highways Act 1980.
- 3.11 The section between Points C and D will form part of a wider perimeter bridleway being proposed at a later stage of development. However to future proof the design now, it is proposed that the section between Points C and D has a recorded width of 5.5 metres (3 metres of constructed hoggin path with suitable equestrian grass verge) and the section between Points D and G would have a recorded width of 2 metres (1.8 metres of constructed hoggin path with suitable grass verge).
- 3.12 The applicant has indicated that they may wish to install cycle chicanes where the path crosses or terminates at proposed internal estate roads (two at Point E and one at Point C). This will be subject to separate permissions sought from the County Council and are not considered as part of this diversion.
- 3.13 No other structures such as gates, culverts, bridges, steps or boardwalks are proposed as part of this diversion proposal. As such, no internal authorisation or approval is required from colleagues such as Watercourse Consent or Structural approval.
- 3.14 New signage will be required as a result this proposal. This will be undertaken by the applicant when required by the County Council.
- 3.15 The proposed footpath would be an unbound 'hoggin' path. The proposal is in accordance with the Cambourne Highway Design Guide which informed the NMU design of Upper, Greater and Lower Cambourne.

4 Legal Framework

4.1 Section 257 of the Town and Country Planning Act 1990 allows that:

‘(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

- (a) in accordance with planning permission granted under Part III, or
- (b) by a government department.

(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

- (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
- (b) for authorising or requiring works to be carried out in relation to any footpath, bridleway or restricted byway for whose stopping up or diversion, creation or improvement provision is made by the order;
- (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath, bridleway or restricted byway;
- (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.’

4.2 An Order shall come into effect once the new route has been certified by either the order-making authority or the highway authority as being of a satisfactory standard for public use. The County Council as highway authority will undertake the certification.

4.3 The Equality Act 2010 consolidated previous disability legislation. There is currently little formal guidance on how the Act interacts with existing rights of way legislation. However, it is generally understood to require order-making authorities to take into account the reasonable needs of disabled people (using the term in its broadest sense) in considering changes to the rights of way network. The Act requires authorities to be more proactive in recording their thought-processes in making their decisions.

4.4 The Crime and Disorder Act 1998 states that the District Council as a relevant authority has a duty to consider the impact of all its functions and decisions on crime and

disorder in its area with due regard to the need to all it can reasonably do to prevent crime and disorder (including anti-social behaviour and other behaviour adversely affecting the environment).

5 Cambridgeshire County Council Policy (including maintenance)

- 5.1 The County Council's own Non-Motorised User (NMU) policy (approved by Highways & Community Infrastructure Committee on 21st February 2017 and replacing the previous Public Path Order Policy) requires that certain criteria are met if a public path order is to be made.
- 5.2 The policy is applicable to any new or diverted NMU route which would become maintainable at public expense. The relevant criteria is made up of a numerically scored set of criteria which consider accessibility relating to the County Council's duty under the Equality Act 2010; the benefit to the Authority and communities from resolving long term maintenance problems; the benefit to the Public Rights of Way (PRoW) network; and the benefit to landowners from improved land management.
- 5.3 The County Council reserves the right to refuse to make an Order where it feels the criteria of the legislation are not met, even where consultation responses suggest there are no public objections.
- 5.4 Within the Cambridgeshire Rights of Way Improvement Plan (ROWIP), several Statements of Action are listed which identify specific ways in which issues that the Rights of Way network face can be addressed now and in the future. Any proposal to divert is not considered in conflict with the Statements of Action set out in the Cambridgeshire ROWIP.

6 Consultations

- 6.1 The local Ramblers' Association, the British Horse Society, South Cambridgeshire District Council, Cambourne Parish Council, local members, the prescribed user groups and the utility companies were all consulted about the proposals. The following replies have been received (copies are attached as Appendix E):
- 6.2 No objection was received by the Ramblers' Association, Virgin Media and Anglian Water.
- 6.3 No other responses were received.

7 Grounds for diversion: Town and Country Planning Act 1990 and Other Legislation

- 7.1 The re-routing of the public footpath from its existing route is required to enable the strategic landscaping of the Cambourne West Phase 1 development. Those works which this Order would enable have been granted planning permission by the Local Planning Authority.

- 7.2 It is therefore considered that the diversion of this footpath is necessary to implement a planning permission granted under part III of the Town and Country Planning Act 1990. Section 1 (a) of Section 257 TCPA 90 is therefore satisfied.
- 7.3 The applicant has agreed to undertake the necessary works to implement the proposed new route at their own expense. These works will be subject to certification by the County Council as the Local Highway Authority.
- 7.4 The rights of statutory undertakers will not be affected. It is therefore considered that Subsection 2 of Section 257 TCPA 90 is satisfied.
- 7.5 The proposal is not considered to be in conflict with the provisions of the Equality Act 2010 as the diverted route does not proposed any features or structures that would restrict or limit its use by any particular group or groups of users. Part of the diverted route is proposed to be upgraded to a public bridleway as part of later stages of the Cambourne West Development.

8 Grounds for diversion: Cambridgeshire County Council criteria including Maintenance Liability

- 8.1 This proposal has been assessed against the County Council's NMU Diversion policy. The NMU diversion assessment can be found at Appendix F. This proposal scored a total of 23 out of a possible 30 points, representing a score of 76%. The threshold score for an application to be considered is 21.
- 8.2 Of the six criteria which must be met for an application to be considered, all but one have been fully met.
- 8.3 The existing footpath is not currently available on the ground as it is subject to a TTRO which closes the route to enable groundworks to proceed until April 2021. As full due processes have been followed in temporarily closing the path, it is considered that this requirement is waived by the Director in this instance.
- 8.4 Pre-application consultations have been carried out by the applicant. No objections were received during that consultation period. Additionally, no objections were maintained during a four week period of consultation undertaken by the County Council.
- 8.5 The proposed width of the diverted path will meet or exceed the minimum requirements of the NMU policy.
- 8.6 The proposed footpath is 849 metres in length, approximately 120 metres longer than the existing path at 729 metres. Whilst this is a noticeable increase in length, the path will provide for ongoing connections across the Cambourne West development, an improvement on the current footpath which is a dead-end path at Swansley Farm.

- 8.7 There are also proposed to be a large number of other routes, either as part of the adoptable road network or informal permissive routes which will provide users with considerable choice when travelling between their particular origin and destination. Other routes may therefore provide a more direct and convenient link for their particular journey.
- 8.8 This footpath has been designed in accordance with the Cambourne Highway Design Guide to minimise, as much as possible, any increases in maintenance liability as a result of this proposal.
- 8.10 It is felt that the impact on the County Council's maintenance liability has been fully considered, and whilst it may increase, it is in line with the County Council's expectations of the Cambourne West Development and has been appropriately mitigated as much as possible.
- 8.11 The proposed new termination point (Point G) is located on a new Cycleway which is proposed by the Cambourne West development and being offered to Cambridgeshire County Council for adoption. The new termination point is located approximately 165 metres south from the previous termination point at Point B. Point B was a dead-end termination point with no onward public access. It is not considered that any alternative provision is necessary to reach Point B.
- 8.12 The proposal is in-line with existing permissions granted by South Cambridgeshire District Council. Whilst the wider approved planning is likely to have some negative impact on the enjoyment of the existing path as the land use changes, the provision of a new, year round path with improved accessibility is likely to have a positive impact on public enjoyment.
- 8.13 Given the approved planning layout on this site, the proposed diversion of the footpath is considered the most suitable and appropriate alignment, meeting the criteria set out in the NMU policy.
- 8.14 Consideration should be given to the Cambridgeshire Rights of Way Improvement Plan (ROWIP). It is considered that this proposal supports the aims of the ROWIP under:
- SoA2: A safer and health-enhancing activity, as it enables increased access to PRoW to facilitate healthy lifestyles as a valuable part of the wider Cambourne West development.
 - SoA3: 72,500 new homes, as it ensures that this public footpath is protected from inappropriate use during development and that new facilities are provided to a high standard.

- SoA7: Develop Definitive Map and Other Records, as it allows for a historically dead-end path to be diverted to provide wider connectivity, as well as enabling the recording of a definitive width and more accurate statement.
- 8.15 The proposal is also considered to be in accordance with the Cambridgeshire Health and Wellbeing Strategy including:
- Priority 5: Create a sustainable environment in which communities can flourish
- 8.16 On the 16th March 2021, Cambridgeshire County Council resolved that it had no objection to the diversion of this public footpath. A copy of the County Council decision can be found at Appendix G.

9 Conclusions

- 9.1 It is considered that the application to divert Public Footpath No. 7, Cambourne meets the requirements of Section 257 of the Town and Country Planning Act 1990.
- 9.2 The decision taken the County Council on the 16th March 2021 confirmed that the application would not have any detrimental impact on the connectivity of the surrounding highway network, or place any additional burden on alternative routes.

10 Recommendations

- 10.1 That South Cambridgeshire District Council approves the making, and confirmation (subject to no objection) of a Public Path Diversion Order under Section 257 of the Town and Country Planning Act 1990.
- 10.2 That South Cambridgeshire District Council indicates its formal decision to Cambridgeshire County Council, as agents for the District Council.

LIST OF DOCUMENTS

A	Copy of diversion order application
B	Copy of planning application No. S/4161/19/RM
C	Copy of Memorandum of Agreement between the District Council and Cambridgeshire County Council
D	Map showing proposed diversion
E	Copies of consultation responses
F	NMU Diversion Policy Matrix
G	Decision Memo for CCC Assistant Director: Highways