

To: South Cambridgeshire District Council Planning Committee
From: James Stringer, Asset Information Definitive Map Officer
Ref: P112
Date: 9th June 2021

Report on the proposed diversion of part of Melbourn Public Footpath No. 6 and stopping up of part of Melbourn Public Footpath No. 8

1 Purpose

- 1.1 To report on the proposed diversion of part of Public Footpath No. 6 and stopping up of part of Public Footpath No. 8 in the parish of Melbourn.
- 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 Phil Keeley of Labosport Ltd on behalf of the landowner, Melbourn Village College, for the diversion of part of Public Footpath No. 6 and stopping up of part of Public Footpath No. 8. The application 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 an Artificial Grass Pitch (AGP) with associated features under full permission 20/01931/FUL (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 3rd December 2020. A map showing the effect of the proposal is at Appendix D.
- 2.5 The existing public footpaths runs across the playing fields associated with Melbourn Village College and provide a link between Vicarage Close and The Moor or Meldreth further afield.

3 Site Description

Melbourn Public Footpath No. 6

Existing public footpath (A-B-C-D)

- 3.1 The existing footpath starts from a point at OSGR TL 3822 4501 (Point A) and proceeds in a northerly direction for 109 metres to a junction with Public Footpath No. 8 at OSGR TL 3819 4511 (Point B), proceeds in a north-easterly direction for 19 metres to a point at OSGR TL 3820 4513 (Point C). The path then proceeds in a north-north-westerly direction for 31 metres to a point at OSGR TL 3819 4516 (Point D). The total length of existing public footpath is 159m.
- 3.2 There are no gaps, gates, stiles or any other highway structures (i.e. culverts or steps) on the existing route.
- 3.3 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 the Melbourn Village College site.
- 3.4 The footpath is maintainable at public expense by the County Council, as Highway Authority. However, the path criss-crosses the outer playing field of Melbourn Village College and therefore any ongoing grass cutting is currently undertaken by the College.
- 3.5 The affected section of the existing footpath does not egress onto the public highway at any point.

Melbourn Public Footpath No. 8

Existing public footpath (E-B)

- 3.6 The existing footpath starts from a point at OSGR TL 3819 4510 (Point E) and proceeds in the north-easterly direction for 13 metres to meet Public Footpath No. 6 at OSGR TL 3819 4511 (Point B).
- 3.7 There are no gaps, gates, stiles or any other highway structures (i.e. culverts or steps) on the existing route.

- 3.8 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 the Melbourn Village College site.
- 3.9 The footpath is maintainable at public expense by the County Council, as Highway Authority. However, the path criss-crosses the outer playing field of Melbourn Village College and therefore any ongoing grass cutting is currently undertaken by the College.
- 3.10 The affected section of the existing footpath does not egress onto the public highway at any point.

Proposed public footpath (A-E-F-D)

- 3.11 The proposed path would commence from a point at OSGR TL 3822 4501 (Point A) and proceeds in a north-westerly direction for 99 metres to a junction with Public Footpath No. 8 at OSGR TL 3819 4510 (Point E) and continuing in the same direction for 49 metres to a point at OSGR TL 3817 4514 (Point F), continuing in a north-easterly direction for 26 metres to a point at OSGR TL 3819 4516 (Point D).
- 3.12 The total length of the proposed path is 174m.
- 3.13 No 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 waymarking signage will be required as a result this proposal. This will be undertaken at Points A, E ,D & F by the applicant when required by the County Council.
- 3.15 The proposed path will run parallel with a proposed Artificial Grass Sports Pitch. Whilst the proposed path will continue to cross the natural grass playground, it may be necessary for the path to re-seeded if damaged as part of the construction phase. This will be undertaken by the applicant.
- 3.16 The path will have a recorded width of two metres as per the NMU Diversion Policy. The footpath will run adjacent to the security fencing surrounding the new sports pitches.
- 3.17 The location of the footpaths do not form part of any protected or designated site.

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 is 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 anti-discrimination legislation. Of particular importance to the highway authority (a public authority as defined in the Act) is section 149. This section of the Equality Act 2010 requires public authorities to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (the public sector equality duty). These considerations are the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4.5 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 4.6 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 people with the relevant protected characteristics 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, Melbourn 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 County Councillor Van De Ven and District Councillor Hales both expressed their support for the proposal. No objection was received by the Ramblers' Association or Cadent Gas.
- 6.3 Anglian Water noted waste assets may be present in the vicinity of the proposal, but it is not considered that they will be affected by this proposal.
- 6.4 No other responses were received.

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

- 7.1 The re-alignment of the public footpaths from the existing route is required to enable the delivery of the permitted development at Melbourn Village College. 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 part of Public Footpath No. 6 and the stopping up of part of Public Footpath No. 8 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.

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 have been fully met.
- 8.3 The existing footpath is currently available on the ground to allow a comparison to be made.
- 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 (No. 6) is 174 metres in length, approximately two metres longer than the existing affected paths at a combined distance of 172 metres. This increase in length is considered negligible.
- 8.7 The surface of the path is not proposed to change and no limitations which may restrict use or accessibility are proposed. It is not therefore considered that this proposal will have any material impact on public accessibility or enjoyment of these public footpaths.
- 8.8 It is not considered that this proposal will place any additional maintenance liability on the Highway Authority. The path will continue to be cut by the College as part of their general upkeep of the College site.
- 8.9 The proposal is in-line with existing permissions granted by South Cambridgeshire District Council. 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.
- 8.10 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:
 - SoA3: 72,500 new homes, as it ensures that this public footpath is protected from development and that new facilities are provided to an acceptable standard.
- 8.11 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

8.12 On the 22nd April 2021, Cambridgeshire County Council resolved that it had no objection to the proposal. 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 part of Public Footpath No. 6 and stop up part of Public Footpath No. 8, Melbourn meets the requirements of Section 257 of the Town and Country Planning Act 1990.
- 9.2 It is not considered that the application would have any detrimental impact on the connectivity of the surrounding highway network, or place any additional burden on the affected or alternative routes which may cause concern to the County Council, as Local Highways Authority.

10 Recommendations

- 10.1 That South Cambridgeshire District Council approves the making, and confirmation (subject to no objection) of a Public Path 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. 20/01931/FUL
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