

To: South Cambridgeshire District Council – Planning Committee  
From: Tom Ruzsala, Asset Information, Definitive Map Officer  
Ref: P120  
Date: 22 February 2023

Report on the proposal to stop up part of Public Footpath No. 12, Sawston and Public Footpath No. 9, Babraham and replace them with a Public Bridleway and two Public Footpath connections.

## 1 Purpose

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- 1.1 To report on a proposal to stop up part of Public Footpath No. 12, Sawston and all of Public Footpath No. 9, Babraham and replace them with a bridleway and two footpath connections at a development site in Sawston and Babraham.
- 1.2 **Appendix A** comprises a copy of the application form. A plan showing the effect of the proposals is at **Appendix B**, along with a plan showing the effect of the proposals combined with the planning layout of the site is attached at **Appendix C**.

## 2 Background

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- 2.1 On 11 November 2021 Redrow Homes Limited ('the Applicant') applied to Cambridgeshire County Council for a Public Path Order to stop up part of Public Footpath No. 12, Sawston ('Sawston Footpath 12') and all of Public Footpath No. 9, Babraham ('Babraham Footpath 9') which crosses through the middle of a development site at Sawston and Babraham and replace them with a bridleway.
- 2.2 The application for a Public Path Order is necessary in order to implement a planning permission in relation to planning application reference 21/03955/FUL to erect 280 dwellings at land south of Babraham Road, Sawston (see **Appendix D**). Condition 12 of the planning permission sets out that the developer must submit a Public Rights of Way scheme to the Local Planning Authority prior to the commencement of development. This condition was in accordance with Policy TI/2 of the South Cambridgeshire Local Plan and paragraph 100 of the National Planning Policy Framework. The approved layout plan of 21/03955/FUL is available at **Appendix E**.
- 2.3 The development site was originally allocated for residential development in the South Cambridgeshire Adopted Local Plan in 2018. Policy H/1:c of the Local Plan stated that any development of the site would be required to 'include additional cycle and pedestrian link into Sawston along the western boundary of the site including to The Green Road, Church Lane and Plantation Road.' The required link follows part of Public Footpath No. 14, Sawston ('Sawston

Footpath 14') which connects into Church Lane to the southwest of the development site.

- 2.4 Under the Town and Country Planning Act 1990 the powers to make Public Path Orders to enable a development to take place are held by the relevant planning authority, South Cambridgeshire District Council, under section 257.
- 2.5 In February 2007, South Cambridgeshire District Council entered into an Agreement with Cambridgeshire County Council providing that all Public Path 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 F**.
- 2.6 Sawston Footpath 12 was first recorded on the Definitive Map for Cambridgeshire (relevant date 4<sup>th</sup> October 1952) as a 4-foot wide cross-field footpath over an arable field from a lane connecting to a Vicarage through to the Babraham parish boundary, where the footpath continued across another field eventually to meet the former Great Eastern Railway. Much of the alignment and character of Sawston Footpath 12 has changed since the formation of the Definitive Map in the 1950s as Sawston village expanded eastwards in the 1960s and 1970s. The part of Sawston Footpath 12 and Babraham Footpath 9 which are proposed to be stopped up are the last remaining sections of the paths across arable fields, which have now been granted planning permission for development.

### 3 Site Description

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#### Existing public footpath A-B-C

- 3.1 The public footpath to be stopped up commences as part of Sawston Footpath 12 from a point at a bollard at the edge of a field at OSGR TL 4941 4964 (point A) and proceeds along a field edge track, then a cross-field path, generally north-east for approximately 291 metres to the Babraham parish boundary at a field edge at OSGR TL 4964 4982 (point B). The footpath to be stopped up then continues as Babraham Footpath 9 from the parish boundary with Sawston at a field edge at OSGR TL 4964 4982 (point B) and proceeds generally north-east across a field for approximately 132 metres to a junction with Public Footpath No. 1, Pamisford at OSGR TL 4975 4989 (point C) ('The Footpath to be Stopped Up'). The total length of The Footpath to be Stopped Up is 423 metres. Photographs of The Footpath to be Stopped Up taken on 27 May 2022 are available at **Appendix G**.

#### Bridleway to be created D-E-F-G-I-J-K-L-M

- 3.2 The bridleway to be created, in compensation of the footpath to be stopped up and in enhancement of the public rights of way network, commences at a

junction with Church Lane at OSGR TL 4913 4945 (Point D) and proceeds along the alignment of Public Footpath No. 14, Sawston ('Sawston Footpath 14') along a proposed field edge tarmac path generally east for approximately 354 metres to OSGR TL 4948 4946 (Point E). The bridleway to be created then continues along a proposed field edge hoggin path generally east for approximately 106 metres to a gap in the hedgerow at OSGR TL 4959 4947 (Point F). The bridleway to be created then diverges from Sawston Footpath 14 generally north-north-east, along a proposed hoggin path through a green corridor, for approximately 213 metres to a gap in a hedge at OSGR TL 4962 4968 (point G). The bridleway to be created then continues generally north-north-east, along a proposed hoggin path for approximately 138 metres to the Babraham parish boundary at OSGR TL 4965 4981 (point I). The bridleway to be created then continues generally east-south-east along a proposed hoggin path for approximately 56 metres to OSGR TL 4970 4979 (point J). The bridleway to be created then continues generally north-north-east along a proposed hoggin path through a green corridor to the east of a residential street for approximately 110 metres to a point adjacent to a road to be constructed at OSGR TL 4974 4990 (point K). The bridleway to be created then continues generally north-north-east along a proposed hoggin path for approximately 63 metres to OSGR TL 4975 4996 (point L). The bridleway to be created then continues generally north-west along a proposed hoggin path for approximately 144 metres to a junction with Sawston Road (public road) at OSGR TL 4962 5003 (point M) ('The Bridleway to be Created'). Photographs of The Bridleway to be Created taken on 27 May 2022 at available at **Appendix H**.

Footpath connection to be created between The Bridleway to be Created and Public Footpath No. 1, Pampisford ('Pampisford Footpath 1')

- 3.3 A new footpath connection between The Bridleway to be Created and Pampisford Footpath 1 commences at a proposed hoggin path, to the east of a road, at OSGR TL 4974 4990 (point K) and continues generally east-south-east for approximately 14 metres to a junction with Pampisford Footpath 1 at OSGR TL 4975 4989 (point C).

Footpath connection to be created between the Bridleway to be Created and Public Footpath No. 2, Pampisford ('Pampisford Footpath 2')

- 3.4 A new footpath connection commencing at a gap in a hedge at OSGR TL 4962 4968 (point G) generally east for approximately 13 metres to a junction with Pampisford Footpath 2 at OSGR TL 4963 4968 (point H).
- 3.5 Part of The Bridleway to be Created between points D and E forms part of the routes which have been offered to the County Council for adoption under Section 38 of the Highways Act 1980 (**Appendix I**). The specification for The Bridleway to be Created between points D and E is available at **Appendix I**. This section of The Bridleway to be Created is proposed to be a 4-metre-wide tarmac path constructed in line with the County Council's standards for

housing estate road construction specifications for Footways and Cycleways. This is because it is considered to form part of an important utility and active travel connection for non-motorised users from the development to the centre of Sawston which was originally identified as being required for the site in the South Cambridgeshire Adopted Local Plan in 2018 (see paragraph 2.3 above). The surface of the section between points D and E shall be made up of AC 10 tarmac which is a type of tarmac that has a greater give in it for equestrian use and has been used on the new A14 non-motorised user routes.

- 3.6 The rest of The Bridleway to be Created and the two footpath connections are to be constructed as a 4-metre wide hoggin path between timber edging (see **Appendix K**). The available widths to construct the paths on the site are limited and therefore it is the preference of the Rights of Way Officer for the hoggin surface to extend across the full 4 metre width rather than a 2-metre strip contiguous with a natural surface for equestrians. The secretary for the British Horse Society for Cambridgeshire is in agreement with the Rights of Way Officer's recommendations in this location (see p.62 of **Appendix O**).
- 3.7 The location of The Bridleway to be Created and the two footpaths' connections are not part of any protected or designated site such as a Site of Special Scientific Interest or a Scheduled Monument. The land to the east of the development site forms part of the Cambridge Green Belt and therefore further development of land to the east is unlikely.

#### **Additional Alternative Equestrian Route**

- 3.8 The Bridleway to be Created terminates at Sawston Road at point M adjacent to a foot and cycle path which runs to the south of the carriageway. Presently equestrians are not able to use the foot and cycle path which continues west towards Sawston passing by Restricted Byway No. 10, Babraham which runs along the rear of the South Cambridge Business Park. As an alternative to using the main road which has a speed limit of 60 miles per hour, the Applicant has offered an alternative equestrian connection, in part on a permissive basis on the routes which are not due to be adopted by the County Council, which is shown in pink on the plan at **Appendix C**. The alternative equestrian connection partly follows the estate roads through from the north-eastern part of The Bridleway to be Created through to a junction with Sawston Road at a 30 miles per hour section with dropped kerbs at the north-western corner of the development site. The additional alternative equestrian route, whilst not offered as a public right of way by the Applicant, enhances access opportunities for equestrians and provides a potentially safer and more pleasant alternative to using Sawston/Babraham Road when the user is looking to continue their journey via Restricted Byway No. 10, Babraham to access the Rights of Way network to the north of Sawston, or vice versa.

## 4 Legal Framework

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### 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 anti-discrimination legislation. Of particular importance to the highway authority and planning authority public authorities 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.

- 4.4 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 4.5 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.
- 4.6 In July 2022 an Equality Impact Assessment Screening Form was completed with reference to the scheme proposed in this report (**Appendix L**). The screening form identified that a full Equality Impact Assessment was not required in this case as the scheme was not considered to disproportionately impact upon any users with protected characteristics.

## **5 Cambridgeshire County Council and South Cambridgeshire District Council Policy**

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- 5.1 The County Council's own Non-Motorised User (NMU) policy (approved by Highways & Community Infrastructure Committee on 21<sup>st</sup> 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 are 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 In addition to the numerical scoring matrix within the NMU policy, there are six pass or fail criteria relating to County Council requirements that must be met in order for an application to be considered. If an application fails one of these criteria, it fails regardless of its numerical score unless an exemption is

granted by the Assistant Director, Highways Maintenance if it is considered to be appropriate. The criteria are as follows:

1. Viability (cost of implementation) and Affordability (cost of ongoing maintenance)
  2. Pre-application consultations have been carried out with the prescribed bodies
  3. The existing route is available for use and any 'temporary' obstructions have been removed, in order to allow a comparison to be made. Any request for exemption will be decided by the Assistant Director Highways Maintenance as to whether or not that is appropriate.
  4. No objections are received to the proposals during the statutory consultation period prior to making an order. However, the County Council will review this criterion in individual cases in light of objections and potential public benefit of the proposal. If the County Council consider the objection to be irrelevant, this will class as a pass.
  5. A minimum width of 2m is provided for a diverted footpath, and a minimum width of 4m for a diverted bridleway. In exceptional cases, e.g. cross-field paths, the County Council may, taking into account all the available facts, require such a width as it considers reasonable and appropriate.
  6. The proposed route would have no stiles or gates, or allows for access for people with mobility issues.
- 5.4 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.
- 5.5 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 will not be considered which is in conflict with the Statements of Action set out in the Cambridgeshire ROWIP.
- 5.6 South Cambridgeshire District Council's adopted Local Plan from 2018 included policy T1/2: Planning for Sustainable Travel. This states that developments must be located and designed to reduce the need to travel, particularly by car, and promote sustainable travel appropriate to its location. Paragraph 2(b) of the policy states that 'planning permission will only be granted for development likely to give rise to increased travel demands, where the site has (or will attain) sufficient integration and accessibility by walking, cycling or public community transport including:
- C. Protection and improvements to existing cycle and walking routes, including the Rights of Way network, to ensure the effectiveness and amenity of these routes is maintained, including through maintenance, crossings, signposting and waymarking, and, where appropriate, widening and lighting.

## 6 Consultations

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- 6.1 A consultation with the local Ramblers' Association, the British Horse Society, the Cycling Touring Club, South Cambridgeshire District Council, Sawston Parish Council, Babraham Parish Council and Pampisford Parish Council, the local Members, the Rights of Way Officer, the landowners, any adjacent landowners and other interested local parties was undertaken on the application in September 2022 (see letter and plan at **Appendix M**).
- 6.2 Sawston Parish Council initially responded to the consultation on 28 September 2022 stating that they did not support the proposal as they had concerns about the proposal regarding disconnection between the existing bridleway and footpath for equestrians (**Appendix N**). On 25 October 2022 an Officer from the County Council and representatives of the Applicant attended a parish council meeting to discuss the proposals. At the meeting, concerns were raised from some members of the parish council about different modes of transport (equestrians, pedestrians, cyclists and motorised scooters) using the same pathway.
- 6.3 It is an offence under section 34 of the Road and Traffic Act 1988 to drive a mechanically-propelled vehicle without lawful authority over any footpath, bridleway or restricted byway. E-Scooters are classed as light-weight powered motor vehicles under the Road and Traffic Act 1988 and therefore their use on bridleways is illegal. The police have the power to enforce under the Road and Traffic Act 1988. The surface of the majority of The Bridleway to be Created is to be formed of a hoggin surface which is a naturally occurring compacted gravel type surface. This type of surface is often used on rights of way which are mainly used for leisure purposes rather than commuting type routes (for example the circular bridleway constructed around the perimeter of Cambourne). It is considered that the proposed unsealed surface of the majority of The Bridleway to be Created would be unlikely to attract motorised scooters as this type of user would find use difficult on an unsealed surface.
- 6.4 Following the meeting on 25 October and further communication with the Parish Council on the concerns of some of the members of the Parish Council, the Parish Council confirmed that they had resolved to support the proposed order but retained some concerns over the different means of transport using the same pathway. A follow up email was sent to the Parish Council on 8 November 2022 outlining the Cambridgeshire County Council policy on Public Rights of Way widths and the national standards these are based on and an explanation of why it is considered that motorised scooters should not cause a significant issue on The Bridleway to be Created. No further responses were received from the Parish Council.
- 6.5 Feedback on the consultation was received from the secretary for Cambridgeshire of the British Horse Society (**Appendix O**). The British Horse Society stated that they fully supported the proposals but requested further



information on the proposed surfacing. Following consultation with the Rights of Way Officer, the Applicant updated the specification for The Bridleway to Be Created to provide further detail on the makeup of the hoggin surface which is proposed to be topped with compacted fine particles that will provide a smoother surface and avoid larger particles which are not desirable for equestrian use (see specification at **Appendix K**). A similar type of specification was used on a bridleway in Cambourne which the British Horse Society representative inspected and confirmed they were satisfied with for use on The Bridleway to be Created.

- 6.6 Feedback on the consultation was received from the local representative for the Cycling Touring Club (**Appendix P**). The Cycling Touring Club were generally interested in the wider permeability of the development itself and whether connections off The Bridleway to be Created and some of the estate roads within the development would be available for cyclists.
- 6.7 The County Council were able to advise the representative that the eastern connections into The Bridleway to be Created (marked YA, YB, YC, YD, YE and YF on the plan marked up by the CTC representative - **p. 70 of Appendix P**) would all be available for cyclists but are not proposed to be dedicated as public rights of way. These routes are to be maintained by the Applicant's selected estate management company. The southern connection (marked YG on the plan at **p.70 of Appendix P**), via point E, is to form part of an adoptable foot and cycleway connecting into the main spine road through the development which is also proposed to be adopted by the County Council and have a separate cycle way running down it.
- 6.8 On the west of the development site, a footpath connection at point A (marked YJ on the plan at **p.70 of Appendix P**) is to be retained linking to the new estate road proposed to be adopted, although this link will not be available for cyclists because it connects into a narrow public footpath. Additionally, a connection into Plantation Road (marked YH on the plan at **p.70 of Appendix P**) will be possible through a gap in the hedge, although no formal path connection will be constructed in that location. The estate road backing onto Plantation Road is not proposed to form part of the roads to be adopted on the development. This connection therefore will remain the responsibility of the Applicant's selected estate management company to maintain in the future.
- 6.9 Presently no connection is planned to be available into Stanley Webb Close. This is due to a decision taken by the landowner of Stanley Webb Close, Metropolitan Housing Association in consultation with their residents. The roads and footways at Stanley Webb Close are not adopted and so are maintained by Metropolitan Housing Association which is funded through a service charge taken from residents of Stanley Webb Close. The residents of Stanley Webb Close are concerned that increased traffic on the roads and footways of Stanley Webb Close would lead to damage to the roads and footways. Funding for any repairs to the roads and footways would come from the residents of Stanley Webb Close and therefore they are not in favour of

any proposals to provide access through to the new development. A locked gate owned by Metropolitan Housing Association is presently in place at a connection point between Stanley Webb Close and the new development. The Applicant wishes to see the gate opened up to increase the permeability of the development, but this will not be possible without landowner consent. The Cycling Touring Club representative confirmed that they were disappointed with this but were clear on the reasons.

- 6.10 Furthermore, the representative of the Cycling Touring Club requested information as to whether agricultural vehicular rights were to be retained on the part of The Bridleway to be Created between points D-E-F. The County Council were able to confirm, via the Applicant, that the vehicular rights on this section had been removed and therefore users would not have to share the bridleway with private traffic. The representative of the Cycling Touring Club confirmed that they felt this was a good result.
- 6.11 The local representative of The Ramblers' Association responded to the consultation stating that they had no objection to the proposals although they were concerned that the building works may prohibit access to the existing public footpath during development (**Appendix Q**). As a consequence of the comment received from the Ramblers' Association, the Applicant was informed by the County Council that it would be unlawful to commence building work which would result in an obstruction of the existing public footpath until such time that the legal process to stop it up and replace it has been concluded.
- 6.12 Four residents from Stanley Webb Close raised objections to the proposals (**Appendices R-S-T-U**). The objections all concerned two issues. The first was that the approved layout of the development would result in a situation where their landlord, Metropolitan Housing Association, would be unable to access the southern part of a hedge and tree line for maintenance which could lead to the area becoming overgrown (see map and photo of the hedge line at **Appendix V**). The second objection was on the basis that the approved layout would result in properties abutting the rear of properties on Stanley Webb Close being too close to the existing properties and have a negative impact on their enjoyment of their homes. The objectors stated that if the footpath was to remain, this would provide a buffer between their properties and the new development.
- 6.13 Discussions were held between Metropolitan Housing Association, the owners of the hedge and properties at Stanley Webb Close, the Applicant and the County Council regarding the objections. Metropolitan Housing Association confirmed that they had previously been maintaining the hedge from the side of the footpath with the permission of the landowner. This was done on an ad-hoc basis although the hedge hadn't been cut for approximately three years. The maintenance of the hedge was not something that was covered in the standard service charge paid for by residents, but the cost for its maintenance was passed on to the residents through an additional service

charge as and when works to maintain the hedge took place. An agreement between Metropolitan Housing Association and the Applicant was reached for a 1-metre-wide maintenance strip to be put in place between new plots 71 and 56 and existing property numbers 55-58 Stanley Webb Close. The maintenance strip itself is to be maintained by the Applicant's estate management company and access rights would be granted to the Housing Association for maintenance of the hedge. Furthermore, the Applicant arranged access for the Housing Association to reduce the hedge in February 2023. The agreement between the Housing Association and the Applicant was communicated to the residents at 55-58 Stanley Webb Close on 11 January 2023 (see letter at **Appendix X**). As for the remainder of the perimeter hedge running along the eastern boundary of the properties at Stanley Webb Close/western boundary of the development, the Applicant is to place a restricted covenant in the conveyances for each of the new properties which abut the hedge which requires the owners to keep the boundary hedge regularly maintained. Metropolitan Housing Association, who own the majority of properties along Stanley Webb Close, were satisfied with this arrangement and would have the responsibility for ensuring that the hedge on the Stanley Webb Close side is regularly maintained.

6.14 No other responses to the consultation were received.

## **7 Grounds for diversion: Town and County Planning Act 1990 and Other Legislation**

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7.1 The stopping up of the public footpath between points A-B-C is required in order to implement a planning permission (reference 21/03955/FUL) granted under part III of the Town and Country Planning Act 1990. Those works and the layout of the site which the proposal to stop up the public footpath would enable have been granted planning permission by the Local Planning Authority. It is therefore considered that Section 1 (a) of the Town and Country Planning Act 1990 is satisfied.

7.2 The Applicant has agreed, through the consultation and development of the planning proposals, to provide an alternative highway, to the standard and status of public bridleway along a replacement alignment between points D-E-F-G-I-J-K-L-M. It should be noted that part of the replacement highway follows an existing public footpath between points D-E-F which is proposed to be upgraded to bridleway status. Additionally, the Applicant has agreed to provide two new public footpath connections to Public Footpath Nos. 1 and 2, Pampisford between points G and H and K and C. The Applicant has also 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.

- 7.3 It is not considered that the rights of statutory undertakers will be affected by the proposal to stop up the public footpath. It is therefore considered that Subsection 2 of Section 257 of the Town and Country Planning Act 1990 is satisfied.
- 7.4 For any user who is looking to walk from Sawston to Babraham via the existing public footpath between points A-B-C, if they were to only follow routes which are exclusively proposed to be public highways (either through adoption or a public path order), the proposed replacement routes would result in a considerable increase in length of the journey and could impact on the convenience of the Public Rights of Way network. This would be the case if the user was travelling from Sawston to Babraham via Public Footpath No. 1, Pampisford, and Public Footpaths 9 and 8, Babraham (See Ordnance Survey Explorer map of routes between Sawston and Babraham – **Appendix W**).
- 7.5 The stopping up of the existing footpath however is required to enable a large-scale residential development. That development is delivering a number of new routes, including a new off-road public right of way connection between Public Footpath No. 1, Pampisford and the foot and cycle way on Sawston/Babraham Road between points C-K-L-M, and a new public footpath connection to Public Footpath No. 2, Pampisford between points G and H. Therefore, the alternative public bridleway and new connecting public footpaths will form part of an enhanced wider public rights of way network, the vast majority of which will be available to a wider range of non-motorised users (the existing public footpath can only be used by walkers whereas The Bridleway to be Created will be able to be used by walkers, cyclists and equestrians). Furthermore, whilst not all of the routes are proposed to be offered for adoption by the County Council, they will be open to users to travel along shorter alternative routes through the road and footway network to be delivered as part of the wider development. It is considered that the proposal will meet National Planning Policy Framework paragraph 100 through protecting and enhancing the local public rights of way network and public access to the countryside.
- 7.6 An Equality Impact Assessment screening was undertaken by the County Council in July 2022 (**Appendix L**), and it was found that the proposal was not considered to be in conflict with the provisions of the Equality Act 2010 as it is not considered to disproportionately impact upon any users with protected characteristics. Additionally, the proposed diversion route does not propose any features or structures that would restrict or limit its use by any particular group or groups of users.
- 7.7 It is considered that the proposals would particularly benefit certain groups of people, such as pregnant women and maternity, the disabled and the elderly. This would be through the provision of an easier access to the countryside/open space which can in turn enhance mental and physical health and wellbeing.

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

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- 8.1 The proposal to stop up part of Public Footpath No. 12, Sawston and Public Footpath No. 9, Babraham and replace it with an alternative bridleway has been assessed against the County Council's NMU Policy in two separate parts as follows:
1. Consideration of a proposal to stop up part of Public Footpath No. 12, Sawston and all of Public Footpath No. 9, Babraham and replace them with a bridleway and two footpaths under S.257 of the Town and Country Planning Act 1990.
  2. Consideration of a proposal to upgrade part of Public Footpath No. 14, Sawston Footpath 14 to a bridleway under S.257 of the Town and Country Planning Act 1990 to in order to provide a continuous bridleway connection between Church Lane and Sawston Road.
- 8.2 Proposal 1 scored 35 out of 47, representing a score of 75%. Proposals 2 scored 25 out of 30, representing a score of 83%. The assessments can be found at **Appendix Y** along with the accompanying authorisation form at **Appendix Z**. Both proposals meet the threshold for a proposal to be considered acceptable by the Highway Authority.
- 8.3 In addition to the numerical scoring assessment and legislative requirements, the County Council's pass or fail criteria concerning rights of way diversions are considered below.
- 8.4 Viability (cost of implementation) and Affordability (cost of ongoing maintenance)
- The implementation costs will be met in full by the Applicant. Part of the Bridleway to be Created between points D and E is proposed to be adopted by the County Council's Highways Development Management Service. This is because it will form part of a walking and cycling connection to the new development. This part of the Bridleway to be Created therefore will not place any additional maintenance liabilities on the County Council beyond what is already proposed under the adoption scheme. As for the remaining parts of the Bridleway to be Created and the two new Footpath Connections, these are to be constructed with a hoggin surface. Whilst these routes will technically be highway maintainable at public expense by the Highway Authority, the Applicant has confirmed that the routes will be managed and maintained by the Applicant's management company.
- 8.5 Pre-application consultations have been carried out with the prescribed bodies
- The Applicant provided with their application to the County Council in November 2021 a copy of a consultation which they undertook with the local

parish councils, and local user groups which contained no objections to the proposals. Furthermore, the proposal to stop up the public footpaths and replace them with the Bridleway to be Created formed part of an approved planning application which was consulted on by the Local Planning Authority from September 2021.

- 8.6 The existing route is available for use and any 'temporary' obstructions have been removed, in order to allow a comparison to be made. Any request for exemption will be decided by the Assistant Director Highways Maintenance as to whether or not that is appropriate.

The Applicant has agreed to keep the existing route of Sawston Footpath 12 and Babraham Footpath 9 open and available to the public until such time that any Public Path Order to stop it up has been confirmed and certified by the County Council.

- 8.7 No objections are received to the proposals during the statutory consultation period prior to making an order. However, the County Council will review this criterion in individual cases in light of objections and potential public benefit of the proposal. If the County Council consider the objection to be irrelevant, this will class as a pass.

Five objections were initially received to the proposals during the consultation period (one from Sawston Parish Council and four from residents at 55-58 Stanley Webb Close). Following a meeting with Sawston Parish Council on 25 October 2022 however the parish council withdrew their objection to the proposals.

Following the meeting between Metropolitan Housing Association and the Applicant in December 2022 and the subsequent letter to the residents at Stanley Webb Close (**Appendix X**), one response was received from a resident indicating that they were happy with the proposed arrangements for the maintenance of the hedge (**Appendix D1**). No other responses were received from the residents at Stanley Webb Close. It is considered that the Applicant has looked to directly address the concerns of the residents at Stanley Webb Close and has altered their plans for the development as a direct consequence of the concerns raised. As no further objections were received to the letter to the residents in January 2023, it should be considered that the concerns raised have now been addressed by the Applicant. The concerns raised are discussed in greater detail in section 9 of report below.

- 8.8 A minimum width of 2m is provided for a diverted footpath, and a minimum width of 4m for a diverted bridleway. In exceptional cases, e.g. cross-field paths, the County Council may, taking into account all the available facts, require such a width as it considers reasonable and appropriate.

The Applicant is providing a width of 4 metres for the Bridleway to be Created and the two new Footpath Connections. This is in line with good practice outlined in the British Horse Society advice on width, area and height document last updated in October 2021 (see **Appendix A1**).

8.9 The proposed route would have no stiles or gate or allows for access for people with mobility issues.

The Bridleway to be Created and the two new Footpath Connections will have no structures in place which would limit public access.

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:

- SOA1: Making the countryside more accessible. The existing public footpath is a cross-field path which may be difficult to access during certain times of the year, especially for those with limited mobility or people with wheelchairs or buggies. The proposals will create new wide paths which will be accessible at all times of the year, including those in wheelchairs and with buggies furthermore creates additional access opportunities for equestrians and cyclists.
- SOA2: A safer and health-enhancing activity. The proposals will provide a new high-standard facility for walking, cycling and horse-riding which will link into the wider public rights of way network. This should encourage residents of the new development, and other existing residents in Sawston, to partake in activities which will enhance their health and well-being and encourage healthy lifestyles and behaviours.
- SOA3: 72,500 new homes. The proposals ensure that the development contributes to the provision of new and improved links into the existing public rights of way network.
- SOA5: Filling in the Gaps. The proposals will create an additional off-road link between Babraham Footpath 9, the foot/cycle way on Sawston Road and Babraham Restricted Byway 10.

## 9 Discussion and Conclusions

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9.1 Section 7 of the Department for Environment, Food and Rural Affairs ('DEFRA') Rights of Way Circular (1/09) guidance for Local Authorities document (**Appendix B1**) provides advice and guidance on DEFRA's policy on planning permission and public rights of way. This document provides DEFRA's view of the current laws. Most particularly paragraph 7.15 provides a useful overview of the considerations for an order making authority when considering whether

to make or confirm an order under S.257 of the Town and Country Planning Act 1990. This states that the order making authority ('the OMA') should not question the merits of the planning permission when considering whether or not to make or confirm the order, nor should they be making an order purely on the grounds that planning permission has been granted. An OMA however must have good reasons to justify a decision either not to make or confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.

- 9.2 During the consultation residents at 55-58 Stanley Webb Close have raised legitimate concerns over the impact of the proposed stopping up order on their enjoyment of their properties with reference to the impact on the maintenance arrangements for the hedge line which runs to the rear of their properties and Sawston Footpath 12. Furthermore, the residents raised concerns in relation to the close proximity of the new properties to their properties should the development go ahead as approved. It is considered that the Applicant has provided a positive solution to the concerns about the maintenance of the hedge by providing the Housing Association who owns the freehold of 55-58 Stanley Webb Close unrestricted access to a maintenance strip to the south of the hedge line. With reference to the concerns about proximity of the new properties to 55-58 Stanley Webb Close, the layout of the development was given permission by the local planning authority in August 2022. The proposals to stop up Sawston Footpath 12 in this location formed part of the proposals in the planning application 21/03955/FUL and the layout was considered to be acceptable to the planning authority. Whilst it is accepted that the development will undoubtedly have an impact on the properties at 55-58 Stanley Webb Close by altering the arrangements of the land immediately to the south of a hedge line located south of their rear gardens, it is considered that the overall benefits (the provision of a new leisure route facility for all non-motorised users) to the public of the proposals outweighs the disadvantage to the residents of stopping up the public footpath in this location.
- 9.3 It is considered that a proposed public path order should contain a certification clause which prevents the stopping up of the existing public footpaths until such time that the Highway Authority have certified that the new proposed routes have been constructed to a standard acceptable to the Highway Authority. On 1 November 2022 an agreement was reached between the Rights of Way Officer and the Applicant on how certification of a public path order should be managed (see **Appendix C1**). This sets out that the Applicant shall not commence any building works which affect the existing public footpaths until such time that a public path order has been confirmed and the Bridleway to be Created and the two new footpath connections have been made available to the public initially with a 4-metre-wide grass/natural surface. On confirmation that the Rights of Way Officer is satisfied with the provision of the grass/natural surface routes, the public path order will be certified which will have the effect of stopping up the alignment of the existing



public footpath and enable development works to take place across the alignment of the stopped up public right of way. The Applicant shall then bring forward the surface improvements to the new public rights of way which will be in line with those to be approved by the local planning authority, in partnership with the Highway Authority, under condition 12 of the planning permission 21/03955/FUL (Public Rights of Way Scheme). This will ensure that the existing public rights of way are protected during development and furthermore will ensure that the parallel adoption scheme for the part of the Bridleway to be Created between points D and E is able to separately run its course as required without the need to certify the public path order before the adoption process has been fully completed.

- 9.4 Overall it is considered that the proposal to stop up part of Sawston Footpath 12 and Babraham Footpath 9 and replace them with a bridleway and two footpath connections meets the requirements of 257 of the Town and Country Planning Act 1990, the County Council's NMU adoption policies and South Cambridgeshire District Council's Adopted Local Plan policies. This is because it is considered that the overall proposal is necessary to make the overall development of the site acceptable by providing enhanced sustainable travel connections to and around the site, and additionally will have a positive impact on the connectivity of the surrounding highway network.
- 9.5 On 21 February 2023 the County Council's Assistant Director of Highways Maintenance has resolved that the overall proposal is acceptable to the Local Highway Authority (**Appendix E1**).

## 10 Recommendations

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- 10.1 That South Cambridgeshire District Council approves the making and confirmation (subject to no objections) of a Public Path Order under Section 257 of the Town and Country Planning Act 1990 for the stopping up of the Public Footpath between points A-B-C on the plan and replace it with an alternative public bridleway between points D-E-F-G-I-J-K-L-M and two additional footpath connections between points G-H and K-C.
- 10.2 That the width of the alternative public bridleway and two footpath connections shall be four meters.
- 10.3 That the proposed alternative public bridleway and two footpath connections should have no limitations (such as gates or stiles) to the public's use recorded on the Definitive Statement.
- 10.4 That South Cambridgeshire District Council indicates its formal decision to Cambridgeshire County Council, as agents for the District Council.

## Appendix Documents

<b>A</b>	Application Form – 19 October 2021	1 – 7
<b>B</b>	Plan showing the routes to be stopped up and created	8
<b>C</b>	Plan showing the routes to be stopped up and created layered over Planning Layout for 21/03955/FUL	9
<b>D</b>	Decision Notice of Planning Application for erection of 280 dwellings at land south of Babraham Road, Sawston – 21/03955/FUL	10 – 29
<b>E</b>	Planning layout for 21/03955/FUL	30
<b>F</b>	Memorandum of Agreement for the processing of Public Path Orders between Cambridgeshire County Council and South Cambridgeshire District Council – January 2007	31 – 32
<b>G</b>	Photographs of The Footpath to be Stopped up – 27 May 2022	33 – 36
<b>H</b>	Photographs of The Bridleway to be Created – 27 May 2022	37 – 42
<b>I</b>	Section 38 Agreement Plan for development at land south of Babraham Road, Sawston	43
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<b>K</b>	Proposed Public Right of Way Construction Detail	45
<b>L</b>	Equality Impact Assessment Screening Form	46 – 48
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<b>U</b>	Response to consultation from resident at 56 Stanley Webb Close (4) – September 2022	101 – 119
<b>V</b>	Plan and Photograph identifying location of hedge line south of 55-58 Stanley Webb Close	120 – 121
<b>W</b>	Extract of Ordnance Survey Explorer Map showing routes between Sawston and Babraham	122
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<b>Y</b>	Adoption of Non-Motorised User Routes Criteria creation and diversion	125 – 128
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<b>A1</b>	British Horse Society Advice on width, area and height – October 2021	140 – 145
<b>B1</b>	DEFRA Rights of Way Circular (1/09) Guidance for Local Authorities – October 2009	146 - 211
<b>C1</b>	Email confirming Rights of Way Scheme and Certification of routes agreement with the Applicant – 2 November 2022	212 – 213
<b>D1</b>	Response of resident at 55 Stanley Webb Close to letter of 11 January 2023 – 13 January 2023	214
<b>E1</b>	Memo of Jon Munslow, Assistant Director Highways Maintenance, Cambridgeshire County Council, 21 February 2023.	215