



Planning Committee Report

Application Number: 2023/5166/FPATH

Location: Land at Towcester Vale Towcester

Development: Diversion of PROW SB29 as part of application S/2007/0374/OUTWNS [Outline application for the creation of a new mixed use neighbourhood at Towcester comprising: 2750 homes; employment land to support B1, B2 and B8 uses; a main Local Centre (food store, retail units, public house/restaurant, doctors surgery/medical centre, nursery/crèche and community hall); a support local centre (corner shops, takeaways); mixed use commercial area to accommodate Class C1 Hotel with conference and leisure facilities; two new primary schools; areas of public open space and strategic landscaping, incorporating new formal Sports Pitches, and combined community facility and Pavilion and parking and new allotments; the provision of the Towcester Relief Road connecting the A5T to the A43T; surface water/flood management works and necessary related engineering works for drainage and services.]

Applicant: Persimmon Homes Limited

Agent: Persimmon Homes Limited

Case Officer: Daniel Callis

Ward: Towcester and Roade

Reason for Referral: Application under Section 257 of Town and Country Planning Act 1990

Committee Date: 17 October 2023

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION:

- (i) An Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert part of Public Right of Way Footpath SB29, as detailed on the submitted Section 257 application, subject to delegated authority to the Assistant Director of Place to resolve any outstanding objections, and to confirm the un-opposed Order.
- (ii) In the event that objections remain and the draft Order is still opposed, to seek delegated authority for the Assistant Director of Place to refer the matter to the Secretary of State.

Proposal

Diversion of PROW SB29 as part of application S/2007/0374/OUTWNS [Outline application for the creation of a new mixed use neighbourhood at Towcester comprising: 2750 homes; employment land to support B1, B2 and B8 uses; a main Local Centre (food store, retail units, public house/restaurant, doctors surgery/medical centre, nursery/crèche and community hall); a support local centre (corner shops, takeaways); mixed use commercial area to accommodate Class C1 Hotel with conference and leisure facilities; two new primary schools; areas of public open space and strategic landscaping, incorporating new formal Sports Pitches, and combined community facility and Pavilion and parking and new allotments; the provision of the Towcester Relief Road connecting the A5T to the A43T; surface water/flood management works and necessary related engineering works for drainage and services.]

Consultations

The following consultees have raised **no objections** to the application:

- Towcester Town Council
- The Ramblers Association

The following consultees are **yet to comment** on the application:

- WNC Highways and Rights of Way
- WNC Definitive Mapping
- British Horse Society

Representations have been received from two third parties, although both have confirmed they do not object to this S257 application.

Conclusion

The application has been assessed against the relevant legislation and statutory requirements in respect of applications made under Section 257 of the Town and Country Planning Act 1990.

The report looks into the key issues in detail, and Officers recommend that, subject to the resolution of any outstanding objections, an Order be made pursuant to Section 257 of the Town and Country Town and Country Planning Act 1990 to permanently divert part of Public Right of Way, Footpath SB29, as detailed on the submitted Section 257 application and shown on the submitted plan

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1 APPLICATION SITE AND LOCALITY

- 1.1 The application site relates to the proposed sustainable urban extension (SUE) on the southern side of the town, which in total extends to an area of 180 hectares. The SUE is bounded to the east by the A5, to the west by the A43, and to the north by the existing built development of Towcester. The SUE also adjoins the hamlet of Wood Burcote. To the south of the SUE lies open countryside.

2 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The planning permission grants consent for the creation of a new mixed use neighbourhood at Towcester comprising: 2750 homes; employment land to support B1, B2 and B8 uses; a main Local Centre (food store, retail units, public house/restaurant, doctors surgery/medical centre, nursery/crèche and community hall); a support local centre (corner shops, takeaways); mixed use commercial area to accommodate Class C1 Hotel with conference and leisure facilities; two new primary schools; areas of public open space and strategic landscaping, incorporating new formal Sports Pitches, and combined community facility and Pavilion and parking and new allotments; the provision of the Towcester Relief Road connecting the A5T to the A43T; surface water/flood management works and necessary related engineering works for drainage and services.
- 2.2 Reserved matters consent has already been granted (WNS/2022/2365/MAR – Feb 2023) which includes housing across parts of the existing route towards the southern end of the length of footpath to be diverted.
- 2.3 The S257 application seeks to formally divert the footpath (SB29) through the linear public open space around the perimeter of this part of the development.

3 RELEVANT PLANNING HISTORY

- 3.1 The following planning history is considered relevant to the current proposal:

Application ref:	Proposal:	Decision:
S/2007/0374/OUTWNS	Outline planning permission for a sustainable urban extension of up to 2,750 dwellings	Approval March 2015
S/2019/2535/MAR	Reserved matters for the relief road (relating to the outline permission, above), including details of the public open space, through which much of the diversion route for the PRow would pass	Approval Feb 2020
WNS/2022/2365/MAR	Reserved matters for 165 dwellings	Approval Feb 2023

4 RELEVANT PLANNING POLICY AND GUIDANCE

Statutory Duty

- 4.1 The application to permanently divert Footpath SB29 will be made pursuant to section 257 of the Town and Country Planning Act 1990.
- 4.2 The Local Planning Authority may by order authorise the diversion of any footpath if it is satisfied that it is necessary to do so in order to enable development that has been approved by virtue of a planning permission to be carried out.

- 4.3 Any order granted under section 257 of the Town and Country Planning Act may, if the Local Planning 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 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 for whose 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;
 - 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.

Government Guidance

- 4.4 The Department for Transport has issued advice in relation to the diversion of public footpaths. This echoes the provisions set out in section 257 of the Town and Country Planning Act 1990. This guidance incorporates the procedural changes brought about by the Growth and Infrastructure Act, 2013 that enables applications for diversion Orders to be submitted in advance of planning permission being granted.
- 4.5 The changes create a more expeditious process and give greater choice as to when an application is made by those wishing to seek the diversion of highway land.
- 4.6 Rights of Way Guidance by the Planning Inspectorate also provide some helpful guidance;
- 4.7 When consider an order made under section 257, members should be mindful that the planning merits of the development itself are not at issue in the diversion of a right of way and members should not allow the determination of the planning merits to be re-opened. The weighing up of the planning merits and demerits will have been determined in favour of the development (where planning permission has already been granted).
- 4.8 The power contained in section 257 of the Town and Country Planning Act 1990 is only available if the development, insofar as it affects Footpath SB29, is not yet substantially completed. Officers can confirm that, at the time of writing this report, the development within this area of the SUE has only recently begin, with installation of roads, drainage and other infrastructure. No commencement has been made on the construction of any dwellings on the western half of the SUE.

5 RESPONSE TO CONSULTATION

- 5.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website.

Consultee Name	Position	Comment
Towcester Town Council	No objection	The Town Council remains concerned over the diversion of the footpath to a far more convoluted route through the

		development, and considers that the preservation of existing PROWs should be given much higher priority when planning out new developments.
WNC Highways and Rights of Way	No response received	
WNC Definitive Mapping	No response received	
Ramblers Association	No objection	No objection to the proposed route.
British Horse Society	No response received	

6 RESPONSE TO PUBLICITY

Below is a summary of the third party and neighbour responses received at the time of writing this report.

- 6.1 Two local residents have questioned the proposals and the reason for the intended diversion route. Following subsequent communication with the Case Officer, all have confirmed they have no objection to the proposed diversion.

7 APPRAISAL

- 7.1 The principal test (amongst others) under Section 257(1A) of the Town and Country Planning Act 1990 to be applied to applications of this type is whether it is necessary to stop up the footpath in order to enable development to be carried out.
- 7.2 The existing footpath runs generally north south across what was an open arable field. However, the masterplan for the SUE requires a large expanse of housing development in this location and the present linear alignment, if left in situ, would represent not only a physical constraint on the placement of the proposed housing and roads, but could also appear as an incongruous linear strip within any future built-up area.
- 7.3 Officers, in conjunction with the Ramblers Association, have worked with the applicant to secure an attractive, legible, easily navigable diversion route through broad linear open space around the periphery of the development parcel. The alternative route, although admittedly greater in length than the existing dead straight alignment, would be a far more pleasant and tranquil experience for users of the public right of way once the development is completed.
- 7.4 Removing the footpath from the built-up parcel also enables the best possible layout and design of the built up area, in terms of streetscene composition and efficient use of land.
- 7.5 Reserved matters consent has already been granted for housing on part of the existing alignment (WNS/2022/2365/MAR), meaning that the diversion is necessary to implement that consent.
- 7.6 As such, the diversion is considered necessary to enable the development to be carried out in accordance with the relevant planning outline planning permission and subsequent reserved matters approval in accordance with Section 257(1A) of the Town and Country Planning Act 1990.

- 7.7 The effect of the Order will be to divert part of Public Footpath SB29 from a line between points A and H on the Order Map, which is a distance of approximately 450 metres. The proposed diversion would commence at point A and proceed in a generally northerly direction for a distance of approximately 45 metres to point B, where it then continues in a generally north-easterly direction for a distance of 110 metres to point C, then continues in a generally north-easterly direction for a distance of approximately 75 metres to point D, where it then continues in a generally northerly direction for a distance of 100 metres to point E, then in a generally north-westerly direction for 168m to point F, then in a generally northerly direction for 70m to point G, and then in a generally westerly direction for 100m to point H, at which point it re-connects with the existing alignment of Public Footpath SB29.
- 7.8 The new route would have a minimum width of 2m throughout its length and have a 'hoggin' (self-binding gravel) surface.
- 7.9 Whilst it is acknowledged that the diversion would extend the existing route, it would not lead to any significant adverse impact to users of the existing route and would provide an acceptable route for proposed users in future.
- 7.10 There are no objections outstanding from consultees or third parties.

8 FINANCIAL CONSIDERATIONS

- 8.1 None.

9 PLANNING BALANCE AND CONCLUSION

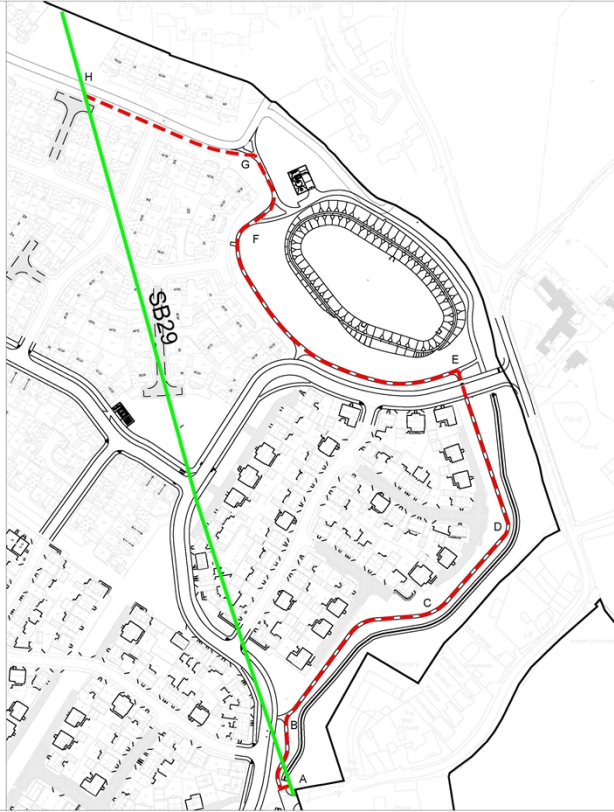
- 9.1 The diversion of part of Public Footpath SB29, as shown on the plans submitted with the Section 257 application, is considered necessary in order to implement the development as approved under planning permission S/2007/0374/OUTWNS and WNS/2022/2365/MAR (and further future reserved matters applications) in accordance with the requirements of Section 257.

RECOMMENDATION:

- (i) **An Order be made pursuant to Section 257 of the Town and Country Planning Act 1990 to divert part of Public Right of Way Footpath SB29, as detailed on the submitted Section 257 application, subject to delegated authority to the Assistant Director of Place to resolve any outstanding objections, and to confirm the un-opposed Order.**
- (ii) **In the event that objections remain and the draft Order is still opposed, to seek delegated authority for the Assistant Director of Place to refer the matter to the Secretary of State.**



Location Plan 1:10000



— Existing SB29
- - - Proposed Permanent Diversion of SB29

#	11111-00-01	19/07/22
#	11111-00-01	21/08/22
Rev	Description	Date

PRELIMINARY

Scale: 1:1250 @ A2
 Date: March 2023
 Drawn: RAH

PROW Diversion SB29

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