



Planning Committee Report

Application Number: P/WNS/2022/0016/MIS
Location: 2 Field Way Helmdon NN13 5QN
Development: Divert the existing footpath around a new building that has been approved WNS/2022/1712/FUL

Applicant: Mr Paul Duncombe
Agent: Cleford Essex Associates Ltd
Case Officer: Daniel Callis

Ward: Silverstone Ward

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

Committee Date: 9 November 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 Planning and Development 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 Planning and Development to refer the matter to the Secretary of State.

Proposal

Divert the part of existing public right of way (footpath AP30) around a new building that has been approved under planning permission WNS/2022/1712/FUL.

Consultations

None undertaken.

No letters of objection (or support) have been received from 3rd parties.

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 AP30, 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 is a set of agricultural buildings to the south of Field Way, Helmdon. The dwelling owned by the applicant is within the village confines, however the application site is classed as open countryside.
- 1.2 A public footpath passes by the south-east corner of the current buildings, through the adjoining paddock.
- 1.3 The existing buildings are currently used as a tractor store for applicants' collection and the site is occasionally used for village events.

2 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The S257 application seeks to formally divert the footpath (AP30) around the siting of a building which has been granted planning permission.
- 2.2 Planning permission WNS/2022/1712/FUL was granted in for *“Demolition of the existing lean to pitched roof storage building, extension of the existing portal framed building and the construction of a new adjoining portal frame building to form an enlarged vintage Tractor shed & re-routing of footpath”*.
- 2.3 The development would obstruct the existing alignment of the PRow.g
- 2.4 The proposed diversion route introduces a kink to the existing straight alignment. The PRow would remain within the field.

3 RELEVANT PLANNING HISTORY

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

Application ref:	Proposal:	Decision:
WNS/2022/1712/FUL	Demolition of the existing lean to pitched roof storage building, extension of the existing portal framed building and the construction of a new adjoining portal frame	Approval December 2022

	building to form an enlarged vintage Tractor shed & re-routing of footpath	
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4 RELEVANT PLANNING POLICY AND GUIDANCE

Statutory Duty

- 4.1 The application to permanently divert Footpath AP30 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 AP30, is not yet substantially completed. Officers can confirm that, at the time of writing this report, the development has not commenced.

5 RESPONSE TO CONSULTATION

- 5.1 No public consultation has yet been undertaken. This would follow the making of the Order.

6 RESPONSE TO PUBLICITY

- 6.1 No third party representations (either opposing or supporting the application) have been received to date.

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 enters the existing paddock on its eastern boundary and then continues in a south-westerly direction, towards the south-west corner of the paddock.
- 7.3 The effect of the Order will be to divert part of Public Footpath AP30 from a line between points A and C on the Order Map, which is a distance of approximately 32 metres. The proposed diversion would commence at point A (roughly 2m into the field) and proceed in a generally southerly direction for a distance of approximately 16 metres to point B, where it then continues in a generally south-westerly direction for a distance of 21 metres to point C, at which point it re-connects with the existing alignment of Public Footpath AP30.
- 7.4 The new route would have a minimum width of 2m throughout its length and have a grass surface (as existing).
- 7.5 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.
- 7.6 There are no objections outstanding from consultees or third parties.

8 FINANCIAL CONSIDERATIONS

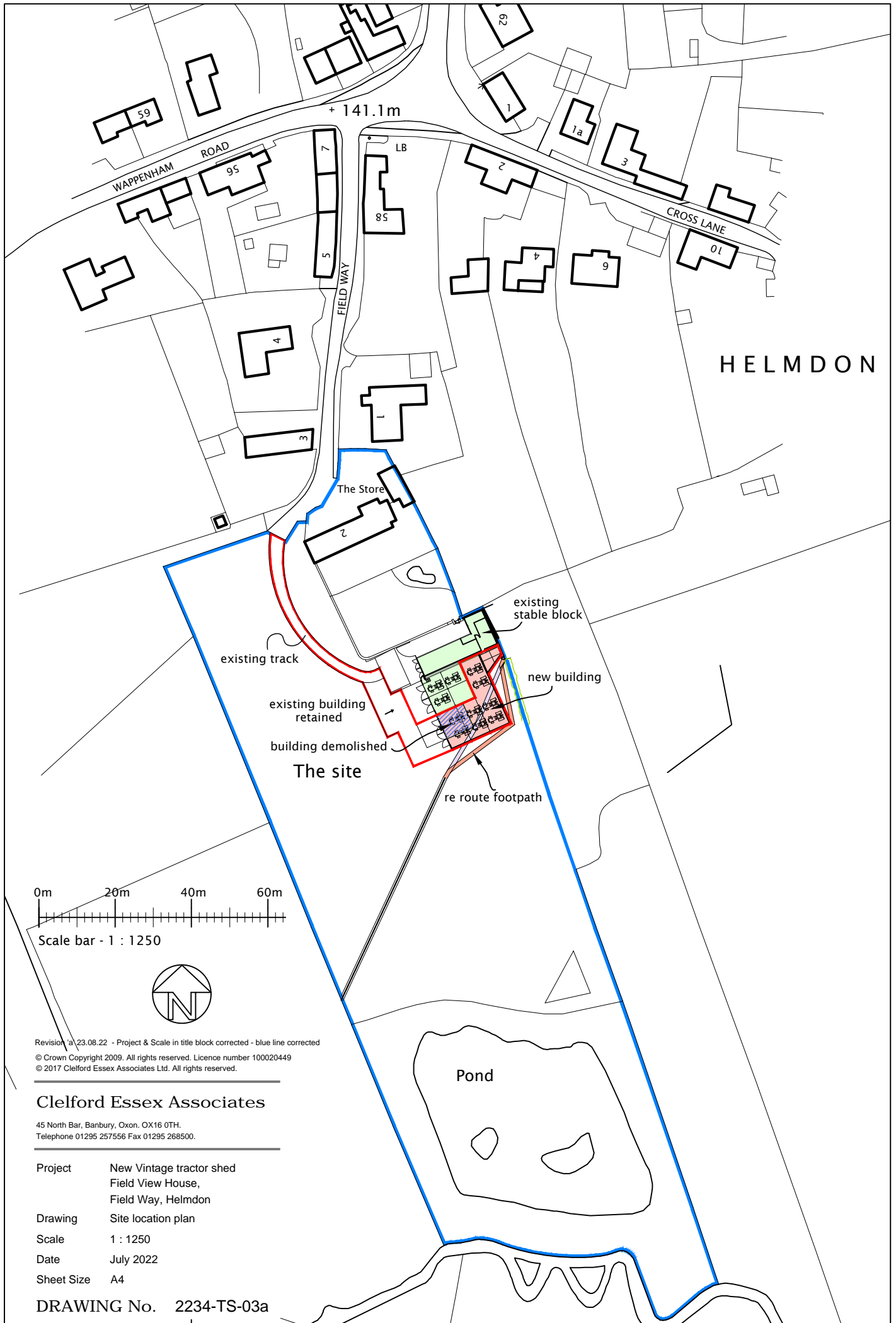
- 8.1 None.

9 PLANNING BALANCE AND CONCLUSION

- 9.1 The diversion of part of Public Footpath AP30, 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 WNS/2022/1712/FUL in accordance with the requirements of Section 257
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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 AP30, as detailed on the submitted Section 257 application, subject to delegated authority to the Assistant Director of Planning and Development to resolve any outstanding objections, and to confirm the un-opposed Order.**
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+ 141.1m

WAPPENHAM ROAD

FIELD WAY

CROSS LANE

HELMDON

The Store

existing stable block

existing track

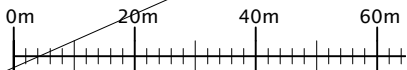
new building

existing building retained

building demolished

The site

re route footpath



Scale bar - 1 : 1250



Revision 'a' 23.08.22 - Project & Scale in title block corrected - blue line corrected
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Clefford Essex Associates

45 North Bar, Banbury, Oxon. OX16 0TH.
 Telephone 01295 257556 Fax 01295 268500.

Project New Vintage tractor shed
 Field View House,
 Field Way, Helmdon

Drawing Site location plan

Scale 1 : 1250

Date July 2022

Sheet Size A4

DRAWING No. 2234-TS-03a