

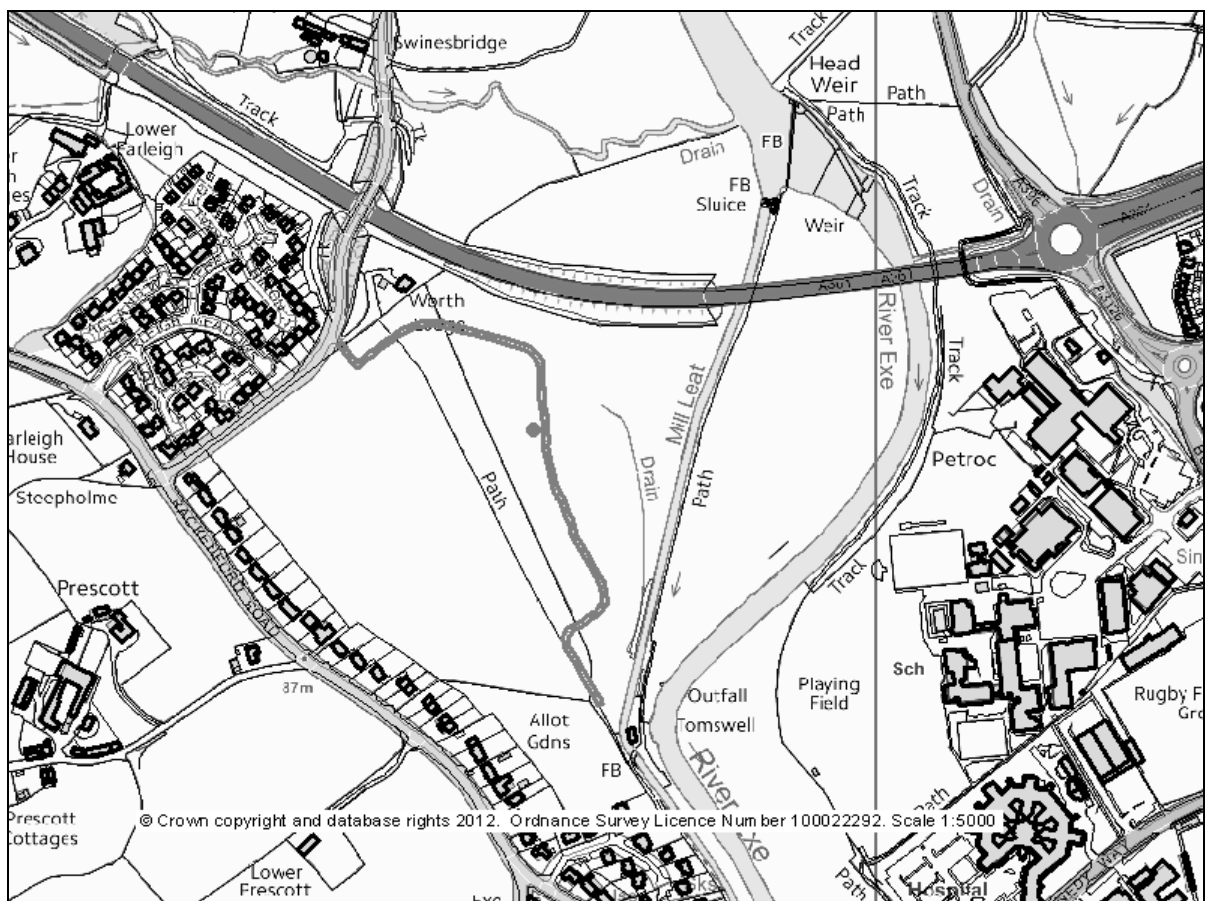
Grid Ref: 113569 : 294586

Applicant: Mr Chris Lennan,
Taylor Wimpey

Location: Land at NGR 294586
113569 (Farleigh
Meadows) Washfield
Lane Lower
Washfield Devon

Proposal: Diversion of Tiverton
Footpath 22

Date Valid: 20th May 2015



REPORT OF THE HEAD OF PLANNING AND REGENERATION

15/00701/PATH - DIVERSION OF TIVERTON FOOTPATH 22 - LAND AT NGR 294586 113569 (FARLEIGH MEADOWS) WASHFIELD LANE LOWER WASHFIELD DEVON

Reason for Report:

To consider the application by Taylor Wimpey to divert part of footpath 22 in association with the residential development scheme at land the rear of Rackenford Road (Farleigh Meadows).

RECOMMENDATION(S)

To note the objection as submitted but authorise officers to proceed to making the order

Relationship to Corporate Plan:

None

Financial Implications:

None as per recommendation

Legal Implications:

None

Risk Assessment:

None

Consultation carried out with:

1. Tiverton Town Council (no response at the time of writing this report)
2. Highway Authority (no response at the time of writing this report)
3. DCC – Public Right of Way (No response at the time of writing this report)
4. Environment Agency – We have no objections to the proposal, a small part of the proposed footpath may touch the edge of Flood Zone 2. If you need a more informed idea of the risk, you could request the applicant undertakes a level survey to form part of a Flood Risk Assessment.

1.0 **BACKGROUND, THE PROCESS, THE PROPOSALS AND RELEVANT CONSIDERATIONS**

1.1 **Background:**

Footpath 22, and the section which is proposed to be diverted forms part of the Exe Valley Way, on the link between Bampton and Tiverton. From the Kennedy Way roundabout the route passes along Rackenford Rd to Higher Loughborough along the pathway adjacent to the Leat, **across the development site**, and out onto Washfield Lane and then northwards to Bampton.

The Process:

Although this application has been submitted pursuant to the provisions within the Town & Country Planning Act, it is not a planning application, and the decision making process that the Local Planning Authority have to complete is different to that in making a decision on a planning application. Prior to making an application to divert and/or extinguish a footpath or bridleway can be diverted, planning permission for a scheme of development that necessitates the diversion must be in place.

On receipt of the application the Council will examine the proposal and undertake informal consultations with the relevant consultee and other local stakeholders. Any suggested amendments to the proposal or objections, will be evaluated, and discussed with the parties concerned and the applicant where this is considered relevant

When agreement has been reached the footpath diversion Order is sealed under delegated authority given to the Head of Planning & Regeneration under the Scheme of Delegation Council's Constitution or if agreement cannot be reached the matters is referred to the Planning Committee to seek authority for the Order to be made.

Following confirmation by the Local Planning Authority (either decided by Committee or by officers under delegated powers) to confirm the order, the process then requires a notice is displayed in the local newspaper and at each end of the footpath to advise the public where to inspect the Order and that objections should be made within **28 days**.

After the 28 days consultation period there are then two routes depending on whether the order is un-opposed or opposed.

2.0 **AN UNOPPOSED ORDER**

2.1 If at the end of the 28 day objection period no objections have been received the Council will write and advise the applicant to complete the works in respect of the proposed footpath as detailed in the Order (**the course of the existing footpath should not be obstructed**). Once the proposed footpath works are complete the applicant should notify the Council to enable inspection to ensure the footpath has been constructed to a satisfactory standard and that the diversion is in place. Once the development is completed the Order is confirmed.

At this stage if any person believes that the legal requirements have not been complied with they may apply to the High Court within 6 weeks to seek to quash the Order. If no application has been made to the High Court by the end of this 6 week period, the Order is unchangeable.

After the 6 week period we will advise the applicant that the Order has been certified and has come into operation, and at this point the legal change to the route of the

path is complete.

3.0 **AN OPPOSED ORDER**

- 3.1 If objections are received within the specified time limit **(28 days)** and are not withdrawn within the 2 month negotiation period, the Order is referred to the Secretary of State who will decide the matter by holding a Public Inquiry or by appointing a person to hear the representations of the objector(s).

The Secretary of State then decides whether to confirm the Order with or without modifications.

If objections are not withdrawn, or are considered by the Secretary of State to be irrelevant, charges against the objector can be sought at the Inquiry and decided by the Secretary of State. This is important for the Local Authority, other statutory consultee and/or any member of the public who maintain an objection to the order.

4.0 **THE PROPOSALS:**

- 4.1 The application submission includes the application form, a copy of the decision notice of the planning permission that necessitates the diversion, and a plan showing the existing footpath and a plan showing the route of the diversion.

The section of the route to be diverted starts at the existing gate opening set on the site boundary within Worthy Lodge off Washfield Lane, and follows a path across the field for 200 metres, where it runs parallel to the Leat adjacent to the existing allotments before joining Rackenford Road at the top of Higher Loughborough. As it stands there is no defined hard surface indicating the path of the route, as shown on Plan PL01.

This existing gateway is to be closed up with a new gated access from Washfield Lane between two of the houses, and then running along a new section pavement in an easterly direction as part of the new housing estate for approximately 40 metres and then running due south adjacent to the new area of meadowland/open space for a distance of approximately 160 metres and re-joining adjacent to the allotments. The route of this section of the footpath is along a defined footway/cycleway which is 3.0 metres in width.

5.0 **RELEVANT CONSIDERATIONS:**

- 5.1 The scheme of development that requires the footpath to be diverted arises from planning permissions issued under LPA ref: 12/00277/MOUT with the reserved matters details approved under LPA ref: 14/01407/MARM. Therefore this application to divert the footpath as described above is considered properly submitted.

The decisions to grant planning permission was in accordance with the relevant policies of the Local Planning Authority's development plan which allocates the site for residential development under policy AL/TIV/8. This policy recognizes that the development will affect a section of the Exe Valley Way, and promotes improvements to the route for pedestrians and cyclists.

In addition to the consultations carried out as set out above the Local Planning Authority sent out notification to 23 local residents who made representations regards 14/01407/MARM. A single objection has been received which considers that it is a

retrograde step to divert the route through the new housing estate which will not be traffic free. The objector considered that the route should be suitable for use by cyclists (including at the entrance from Washfield Lane) with segregated sections of pathway for each type of user.

The section of the route which is to be diverted would be a difficult route for cyclists to use as there is not a defined track or hard surface. Therefore at present cyclists would travel along Washfield Lane and out onto Rackenford Road to travel onto Tiverton – rejoining the defined route at the top of Higher Loughborough. Therefore the proposed route of the diversion will provide cyclists with an alternative route to the top of Higher Loughborough as it will be hard surfaced.

The diversions route is described above, and shown on the plan on the front page of this report. Whilst the context for the route will change it is considered that pedestrians will be able continue to travel along this part of the Exe Valley Way along a defined hard surface, and cyclists will now have the option to also use this part of the route.

The comments submitted by the Environment Agency are noted, and have been taken into account in shaping the development which has the benefit of planning permission, reflecting on the Flood Risk Assessment that was submitted and considered when the decision on the planning application was taken.

In conclusion the proposed diversion is required to enable the new housing development that has the benefit of planning permission to be built out. The approved scheme for the new housing estate included the section of footpath 22 which is now proposed to be formerly diverted. The new route will improve both facilities for pedestrians and cyclists as required by development policy. Whilst there been a single objection to the proposed order for the reasons as set out above it is not considered that any valid points are raised that would justify objecting to the Order.

Reflecting on the issues as set out in this report, and as stated above, it requested that the Committee authorise officers to proceed to confirm the order.

The next stage of the process of the process requires that a notice is displayed in the local newspaper and at each end of the footpath to advise the public where to inspect the Order and with a further opportunity (28 days) to raise any objections.

Contact for any more information

Simon Trafford 01884 4369
Area Planning Officer

Background Papers

Officer's report to Planning Committee in respect of applications referenced below.

File Reference

12/00277/MOUT and 14/01407/MARM

Circulation of the Report

Cllrs Richard Chesterton