

EXPLANATORY STATEMENT

Public Path Diversion Order **Town and Country Planning Act 1990, Section 257**

Cherwell District Council Banbury Footpath No.49 (Part) Diversion Order 2022

THIS EXPLANATORY STATEMENT PROVIDES BACKGROUND INFORMATION ON THE REASON FOR THIS DIVERSION AND DOES NOT FORM PART OF THE ORDER

Cherwell District Council (“the District Council”) has the power to make Orders to divert public rights of way under section 257 of the Town and Country Planning Act 1990 (“the Act”) as the local planning authority where it is satisfied that it is necessary to divert the footpath in order to enable development to be carried out in accordance with planning permission granted under part III of the Act.

The Order to divert Banbury Footpath No.49 has been made as a result of an application being received from the developer Gallagher Estates Limited to divert the footpath located on land in their ownership situated on Land East of the Bloxham Road (A361) and part of the Wykham Park Farm, Wykham Lane, Banbury, Oxon, OX16 9UP. The overall purpose of the Order is to divert the footpath to enable the construction of up to 1000 new dwellings together with a mixed use local centre, community uses, primary school and safeguarded additional primary school land, secondary school playing field, green infrastructure, including formal and informal open space, landscape and amenity space, changing and sports facilities, sustainable drainage systems, new highways, cycle and pedestrian routes, car parking and the formation of a new access and spine road from the A361 Bloxham Road, infrastructure including utilities, engineering works and ground remodelling. In order to facilitate the development that has been granted planning permission by this authority under planning application reference numbers: 14/01932/OUT and 21/01245/DISC, the existing footpath route requires a partial diversion to enable a section of the development on site to be fully achieved.

The planning permission for the development of this site follows the Council’s allocation of this site under our Local Plan. The Local Plan Policy Banbury 17 is to provide a large residential allocation plot to meet the growing housing needs identified in the District. Under the subsequent planning permissions, the council requires the developer to implement improvements to the Public Rights of Way which run across the site to promote accessibility to adjacent areas of development and to maximise the potential for walkable neighbourhoods with new footpaths and cycleways being created that link up to existing networks. Where possible the routes of the Public Rights of Way within the site will be maintained along their existing routes. However, in order to facilitate the full development a partial route change and improvement to the network in relation to Banbury Footpath No.49 is necessary.

Banbury FP49 Current route

The entire width of that length of Banbury Footpath No.49 affected by this Order runs from points A - B (as shown on the order map) for approximately 132 metres and the current footpath width recorded as 6 feet on The Definitive Map Statement.

Banbury FP49 New Route

In order to enable the development of the new roundabout on the A361 Bloxham Road, the new balancing pond for highway drainage, the provision of a safe crossing point and the construction of part of the new section of highway within this section of the development to be

carried out in accordance with the planning permission granted a small section of the footpath route will require re-routing from its current legal alignment so that the new footpath will run from Point A through Points C, D, E and F to Point B (as shown on the order map) for approximately 167 metres. The new footpath will be re-routed marginally to create a safe walkable route around the new balancing pond where it will then continue in a north westerly direction until it reaches the new highway crossing point, where it will provide a link to a safe crossing point over the new section of highway being created. The footpath width will be recorded on The Definitive Map Statement as 3.5 metres.

The administration and advertising costs the District Council incurs as a result of this Order will be recharged at cost to the applicant. The applicant will be responsible for all required on-site works to bring the new route into a satisfactory condition for public use.

The District Council has considered the application and has consulted with key interest groups which includes the Banbury Town Council. It appears to the District Council that the Order complies with the legal provisions contained within the Act and that it is expedient that the footpath should be diverted to enable the development to be carried out.

Furthermore, the District Council has had regard to the following grounds before deciding to make the Order:

- Whether the diversion is necessary in order to enable approved development to be carried out in accordance with the planning permission granted;
- Whether the footpath is substantially as convenient to the public as a consequence of the diversion; and
- The effect which the diversion would have on the enjoyment of the footpath or way as a whole.

The District Council is satisfied that all of the above criteria as set out in the Act have been met.

Any representation about or objection to the Order may be sent or delivered in writing addressed to the Assistant Director of Law, Governance and Democratic Services, Legal Services (PRoW), Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxon, OX15 4AA (ref: JH/LG/014242) or by email to: prow@cherwell-dc.gov.uk not later than 17 June 2022. Please clearly state the grounds on which it is being made. Any objection for opposing an Order must relate to the grounds and tests which apply to the made Order.

If no such representations or objections are duly made, or if any so made are subsequently withdrawn, Cherwell District Council may itself confirm the Order as an unopposed Order, but it has no power to modify the Order. If any objections are made and not withdrawn, the Council may refer the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation, any representations or objections which have not been withdrawn will be sent with the Order.

The right of an objection to an Order is a statutory right, but it should be exercised in a reasonable manner. This process should not be used to re-argue the merits of the planning application to which the Diversion Order relates. The costs involved in dealing with objections to Orders may be awarded against objectors in cases of unreasonable behaviour.

For further information about public path order procedures and the relevant legal provisions please see our website <https://www.cherwell.gov.uk/info/115/planning/476/public-rights-of-way> and Natural England's 'A Guide to definitive maps and changes to public rights of way' (catalogue reference NE112) at <https://www.gov.uk/government/publications/definitive-maps-of-public-rights-of-way-change-the-legal-records>

Data Protection Act and GDPR: The District Council will consider all correspondence, objections and representations received in response to this Order. They may be disseminated widely for these purposes and made available to the public.