

# Agenda Item 51.

Application Number	Expiry Date	Parish	Ward
N/A	N/A	Wokingham	Emmbrook; Wescott;

<b>Applicant</b>	Wokingham Borough Council
<b>Site Address</b>	Carnival Pool Leisure Hub, land at Wellington Road and Finchampstead Road, Wokingham, RG40 2NJ
<b>Proposal</b>	Diversion Order of Wokingham Footpath 23
<b>Type</b>	N/A
<b>PS Category</b>	N/A
<b>Officer</b>	Andrew Fletcher
<b>Reason for determination by committee</b>	Scheme of delegation

<b>FOR CONSIDERATION BY</b>	Planning Committee on Wednesday 13 November 2019
<b>REPORT PREPARED BY</b>	Assistant Director – Place

SUMMARY
<p>The Council has received an application to divert part of Wokingham Footpath No.23 under section 257 of the Town and Country Planning Act 1990.</p> <p>The grounds for the making of the diversion order are part of the line of the path should be diverted to facilitate the redevelopment of the Carnival site in accordance with planning permission granted on 2<sup>nd</sup> February 2018 under application reference 172012.</p> <p>It is recommended that the order is made.</p>

PLANNING STATUS
<ul style="list-style-type: none"> <li>• Major Development Location (CP9/SAL08)</li> <li>• Wokingham Town Centre (TB15)</li> <li>• Carnival Pool/Wellington Road Mixed Use site (SAL08)</li> <li>• Green Route (CC03) (Finchampstead Road and the Carnival Pool roundabout)</li> <li>• Green Route Enhancement area (CC03) Wellington Road</li> <li>• Thames Basin Heaths Special Protection Area 7km linear mitigation zone (CP08)</li> <li>• Public Right of Way Wokingham Footpath 23</li> <li>• Potentially contaminated land consultation zone (Carey Road gas works)</li> <li>• Flood Zone 1</li> </ul> <p><b>Legal Framework for the Decision:</b> Orders for the stopping up or diversion of footpaths, bridleways or restricted byways may be made under Section 257 of the Town &amp; Country Planning Act 1990 (“1990 Act”) if the planning authority is satisfied that it is necessary to do so in order to enable the development to be carried out in accordance with the planning permission.</p>

RECOMMENDATION
<p><b>1. That authorisation is given to the making of an order under s257 of the 1990 Act to divert part of Footpath Wokingham 23 as shown on the plan no. 1, to enable development to be carried out.</b></p>

2. If no objections to the order are received or any such objections are withdrawn, that the order may be confirmed
3. If objections are received and sustained, the order may be sent to the Secretary of State for confirmation.

### PLANNING HISTORY

Full planning permission for the redevelopment of the Carnival Pool site to create leisure led development as part of the regeneration of Wokingham town centre was granted on 02/02/2018 under application ref 172012.

The proposals include the demolition of all existing buildings on site and the construction of: a leisure centre (use class D2); library (use class D1); restaurant (use class A3); commercial unit for non-residential institution or assembly and leisure use (use classes D1 or D2); 55 dwellings (use class C3); pedestrian and vehicular access including a pedestrian boulevard and realignment of Wellington Road; car parking; hard and soft landscaping; realignment of an existing footpath; drainage and other ancillary works.

Works have commenced by way of the demolition of the old Bowling Centre.

### CONSULTATION RESPONSES

Ramblers' Association	No objection
Open Spaces Society	No response received
British Horse Society	No response received
Wokingham Town Council	No objection
Local Access Forum	No objection

### REPRESENTATIONS

**Town/Parish Council:** No objection

**Local Members:** No objection

### APPLICANTS POINTS

The proposed diversion will require the alteration to the termination point of Public Footpath 23 on Wellington Road, moving this approximately 30m to the north; however, it is considered that this small amendment will be just as convenient to members of the public using the route.

### BACKGROUND

1. Wokingham Footpath 23 commences at Barkham Road and runs in a south-easterly direction for 230 metres, east for 195 metres over the railway lines, and then in a north-easterly direction for 160 metres ending at Wellington Road opposite Elms Road.
2. The section of the path affected by the proposed development and which is required to be diverted is shown by a solid black line between the points A-B on Plan No. 1. This path has been historically blocked as it was not diverted during the building of

Southgate House many years ago. Users have been using an alternative route which is similar to the proposed diversion route.

3. The planning application 172012 approved on 2<sup>nd</sup> February 2018 established an approved layout for the site – detail of access, landscaping, scale and appearance. The approved development allows for the construction of an access road to residents' parking spaces and part of the residential building to be built over the existing line of Wokingham Footpath 23. Development across the route of the existing public footpath would constitute an unlawful obstruction of the public right of way. Accordingly, a diversion of the footpath will be necessary for the development.
4. The new route A-C-D-E, would run along the access road to properties, so would be a shared route with properties to access resident's parking spaces. The new route would be a mixture of tarmac and block pave and be 2m wide. Details of how the path diversion will work in reference to the approved layout is shown on Plan No. 2
5. The length of the existing route of Wokingham Footpath 23 to be diverted is approximately 95 metres between points A-B. The length of the diverted route between points A-C-D-E is approximately 92 metres. The existing route has no dog legs, the proposed diverted route has a minor dog leg between points C and D.
6. Wokingham Town Council, the Ramblers and the Open Spaces Society have been consulted and have made no objections to the proposed diversion. The Local Access Forum has also been consulted and has no objection to the proposed diversion. Local Members have been consulted and have no objections to the proposed diversion.
7. Schedule 14 of the 1990 Act requires the Council to give notice if it intends to confirm the diversion order. If there are no subsisting objections the Council may proceed to confirm the order. Otherwise the order can only be confirmed by the Secretary of State who may decide to hold a Public Inquiry. The diversion order can only also be confirmed when planning permission is granted.
8. The following policy is relevant to this application: *Rights of Way Improvement Plan 2009 (Statement of Action Policy SOA3)* Improve accessibility and quality of life: 'to identify ways to improve access on public rights of way for those with visual or mobility impairments'. The length of the footpath within the application site will be accessible for pushchair and wheelchair users.
9. The purpose of the diversion is to alter the definitive line of the path so that it enables development to be lawful. Whilst this is sufficient to satisfy the requirements of s257 such that the order may be made, consideration has also been given as to whether there would be any disadvantages to the public if the order is made. The current route is a surfaced path crossing over a busy vehicular entrance point. Within the new development much of the diverted section of the path will be a shared use with residents' vehicles, but it is considered that the overall traffic movements over this section will be less than exists currently. The proposed diversion will be approximately 3 metres less than the existing path.
10. The merits of the planning application are not under consideration in this process.

**The Public Sector Equality Duty (Equality Act 2010)**

*In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts upon protected groups as a result of the development.*

**CONCLUSION**

Officers are of the opinion that the proposed diversion satisfies the criteria required under section 257 of the Town & Country Planning Act 1990 and that it is necessary for the Council to make the order in that:

- 1) The proposed diversion is necessary to for the development to be lawful in accordance with planning permission that has been granted;
- 2) In general the proposed routes will offer a more convenient footpath for walkers.