

Town Clerk | Swaffham Town Council

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Sent: 28 June 2021 07:35
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Cc: Town Clerk | Swaffham Town Council; Deputy Clerk | Swaffham Town Council
Subject: BDW Cambridgeshire and Swaffham Footpath No. 45
Attachments: pb13733-rural-villagegreens-voluntary-guidance.pdf

Dear Members of the Swaffham Town Council,

Re: BDW Cambridgeshire and Swaffham Footpath No. 45

The Open Spaces Society is Britain's oldest national conservation body. We campaign to protect common land, town and village greens, open spaces, and public paths, in both town and country, in England and Wales.

You may be interested to know that we were recently consulted by BDW Cambridgeshire about their plan to move the Swaffham Footpath No. 45, to accommodate their new housing development.

We object to their plan to move this near-straight, old and long-established path (which has existed since Victorian times, at least) onto a circuitous and meandering alternative alignment, and at a legal width of a measly 2 metres. It appears to us that the scheme would represent a very poor deal for the public, and for future generations.

As well as the proposed inferior alignment, we've raised specific concerns about the proposed narrow legal width for the new path, and the weak legal protection that the proposed "public open space" would enjoy. We've also put forward a suggestion that the proposed new path be created to a status of bridleway or above, rather than merely a footpath, to open it up for enjoyment by a wider section of the community (i.e. pedal cyclists and equestrians).

Width

2 metres is extremely narrow for a public path - especially in the prospective new populous, urban environment within which the path here would be set. Beware! There is usually nothing to legally prevent a public path (or any other highway) from getting enclosed, right up to the boundaries of its legal width, at some time in the future, and this case would not appear to be an exception.

It may be noted that two metres is barely the *minimum* width sought, in the statutory [Norfolk Rights of Way Improvement Plan](#), for an "unenclosed" footpath. It is actually less than the three metre minimum width sought for an "enclosed" footpath. We would prefer 4 or 5 metres as a legal width for any new path. It would not be necessary - or even desirable - for any more than 2 metres of that new path to be tarmacked, but crucially,

the public would still have the permanent and enforceable legal right to pass over the *whole* legal width, and that whole legal width would also be legally protected against enclosure within.

"Public open space"

We're concerned that BDW Cambridgeshire, as landowner, appear at present unwilling to permanently dedicate the proposed "public open space" within the development as town green, under s.15(8) of the Commons Act 2006. Without such registration, the space would have only very weak protection against any future enclosure, damage, or interference. The Department for Environment, Food and Rural Affairs publication "*The Commons Act 2006 and voluntary dedication of land as a town or village green*" (a copy of which is attached to this e-mail) provides further details about the strong and permanent legal protection that registered greens enjoy - for the benefit of the communities that they serve - and also outlines how the voluntary registration procedure applies to, among others, developers who are required to provide an area of public open space as part of a "Section 106 agreement".

We've suggested that, if BDW Cambridgeshire genuinely envisage that the proposed "public open space" should stay that way in perpetuity (for the enjoyment of both present and future generations), then it is difficult to see any good reason for them to refuse to register the land as a green.

We'd heartily encourage the Swaffham Town Council to join us in pressing for a better deal for the public here.

Best wishes,

Yours sincerely,

Ian Witham

Open Spaces Society Local Correspondent for Breckland District, Broadland District, King's Lynn & West Norfolk Borough, North Norfolk District

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