

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Public Rights of Way Sub Committee**
held on Monday, 1st August, 2022 in the Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor L Crane (Chair)
Councillor S Edgar (Vice-Chair)

Councillors S Akers Smith, H Faddes, L Gilbert and D Stockton

OFFICERS IN ATTENDANCE

Laura Allenet, Public Path Orders Officer
Genni Butler, Acting Public Rights of Way Manager
Richard Doran, Countryside Service Development Manager
Vicky Fox, Planning Lawyer
Marianne Nixon, Public Path Orders Officer
Karen Shuker, Democratic Services Officer

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor R Moreton.

2 DECLARATIONS OF INTEREST

No declarations of interest were made.

3 MINUTES OF PREVIOUS MEETING

That the minutes of the meeting held on 14 March 2022 be confirmed as a correct record.

4 PUBLIC SPEAKING TIME/OPEN SESSION

There were no public speakers.

5 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257 PROPOSED DIVERSION OF PUBLIC FOOTPATHS NO. 12 AND 14 IN THE PARISH OF WARDLE

The Committee considered a report detailing the investigation to divert parts of Public Footpath Nos. 12 and 14 in the Parish of Wardle. The proposal had been put forward as an application had been received from AEW Architects on behalf of Philip Posnett, as detailed within planning reference 21/6382N.

In accordance with Section 257 of the Town and Country Planning Act 1990 as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that—

an application for planning permission in respect of development has been made under Part 3, and if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.

Diversion of parts of Public Footpath Nos. 12 and 14 had been requested to allow for the development of a spine road and other associated infrastructure works, as detailed within planning reference 21/6382N. It was noted that as planning application 21/6382N had not been approved yet, the proposed diversion would not come in to affect until such time that it was approved.

The Committee considered the application and noted that no objections had been received from the ward member for Bunbury, the user groups, statutory undertakers, adjacent residents, and Cheshire East’s Nature Conservation Officer.

The Committee concluded that it was necessary to divert parts of Public Footpath Nos. 12 and 14 in the Parish of Wardle to enable development to be carried out.

The Committee unanimously

RESOLVED: That

- (1) That an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert parts of Public Footpath Nos. 12 and 14 in the Parish of Wardle, as illustrated on Plan No TCPA/070 on the grounds that the Council is satisfied that it is necessary to do so to allow development to take place.
- (2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
- (3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**6 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257
PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 3 IN THE
PARISH OF HENHULL**

The Committee considered a report detailing the investigation to divert part of Public Footpath No. 3 in the Parish of Henhull. The proposal had been put forward as an application had been received from Malbank School and Sixth Form College as detailed within planning reference 21/4557N.

In accordance with Section 257 of the Town and Country Planning Act 1990 as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that—

an application for planning permission in respect of development has been made under Part 3, and if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.

Diversion of part of Public Footpath No.3 had been requested to allow for the replacement of an existing 3 rail timber fence, as detailed within planning reference 21/4557N. The existing alignment of Public Footpath No.3 would be directly affected by construction of the new steel fence; therefore, the diversion was required to preserve the public right of way. The associated planning application, 21/4557N, had been approved.

The Committee considered the application and noted that no objections had been received from the ward member for Bunbury, Action, Edleston and Henhull Parish Council, the user groups, statutory undertakers, and Cheshire East’s Nature Conservation Officer. The Committee noted further information reported verbally by the Public Rights of Way Officer.

The Committee concluded that it was necessary to divert part of Public Footpath No. 3 in the Parish of Henhull to enable development to be carried out.

The Committee unanimously

RESOLVED: That

- (1) That an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.3 in the Parish of Henhull, as illustrated on Plan No TCPA/074 on the grounds that the Council is satisfied that it is necessary to do so to allow development to take place.

(2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.

(3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**7 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257
PROPOSED DIVERSION OF PUBLIC FOOTPATHS NO. 2 IN THE
PARISH OF LEIGHTON.**

The Committee considered a report detailing the investigation to divert part of Public Footpath No. 2 in the Parish of Leighton. The proposal had been put forward as an application had been received from Knights Plc, on behalf of Torus62 Developments as detailed within planning reference 20/3210N.

In accordance with Section 257 of the Town and Country Planning Act 1990 as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that—

an application for planning permission in respect of development has been made under Part 3, and if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.

Diversion of part of Public Footpath No.2 had been requested to allow for the construction of up to 400 dwellings and associated infrastructure, as detailed within planning reference 20/3210N. The existing alignment of Public Footpath No.2 would be directly affected by construction of a new road and associated infrastructure; therefore, the diversion was required to preserve the public right of way.

The Committee considered the application and noted that no objections had been received from the ward member for Leighton, Minshull Vernon and District Parish Council, the user groups, statutory undertakers, and Cheshire East’s Nature Conservation Officer.

The Committee concluded that it was necessary to divert part of Public Footpath No. 2 in the Parish of Leighton to enable development to be carried out.

The Committee unanimously

RESOLVED: That

- (1) That an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.2 in the Parish of Leighton, as illustrated on Plan No TCPA/071 on the grounds that the Council is satisfied that it is necessary to do so to allow development to take place.
- (2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.
- (3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

**8 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257
PROPOSED DIVERSION OF PUBLIC FOOTPATH MOSTON 7Y (PART)**

The Committee considered a report detailing the investigation to divert part of Public Footpath No. 7Y in the Parish of Moston. The proposal had been put forward as an application had been received from Taylor Wimpey as detailed within planning references 09/2083C, 14/4218C and 14/4212C.

Taylor Wimpey had also been granted consent for the change of use of an area within their development, the 'Yew Tree Farm complex', for residential and non-residential development in the future.

In accordance with Section 257 of the Town and Country Planning Act 1990 as amended by Section 12 of the Growth and Infrastructure Act 2013:

“(1A) Subject to section 259, a competent authority may by Order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that—

an application for planning permission in respect of development has been made under Part 3, and if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.

Diversion of parts of Public Footpath No.7Y had been requested to enable the development of residential homes and businesses with associated infrastructure and public open space as detailed in planning references 09/2083C, 14/4218C and 14/4212C.

The rear gardens of residential homes situated between points D-E-F highlighted in Plan No. TCPA/072 would obstruct the current footpath, therefore it was considered necessary to realign the footpath via the diversion proposal such that it would pass outside the gardens and preserve the right of passage for the public.

Further, the diversion proposal would realign the footpath such that it would no longer run across the estate roads and pavements at the points shown between a-b and c-C on Plan No. TCPA/072.

Finally, the diversion proposal would by default, resolve obstruction by an electricity substation located between points C-D on Plan No. TCPA/072.

The Committee considered the application and noted that no objections had been received from the ward member for Brereton Rural, Moston Parish Council, the user groups or statutory undertakers.

The Committee noted the objection received from Network Rail in relation to expected increased number of users, and types of user, at the level crossing that carries Moston Public Footpath No.7Y over the railway.

In response, it was explained that the proposed diversion would not have any impact on the number of users or types of user reaching the level crossing. The number and types of user would be the same irrespective of whether users approached via the current route or the proposed diversion route. The proposed diversion would only change the alignment of Moston Public Footpath No.7Y within the development and have no impact on user types or numbers reaching the level crossing that lies outside of the development.

The Committee concluded that it was necessary to divert part of Public Footpath No 7Y in the Parish of Moston to enable development to be carried out.

The Committee unanimously

RESOLVED: That

- (1) That an Order be made under Section 257 of the Town and Country Planning Act 1990 to divert part of Public Footpath No.7Y in the Parish of Moston, as illustrated on Plan No TCPA/072 on the grounds that the Council is satisfied that it is necessary to do so to allow development to take place.
- (2) Public Notice of the making of the Order be given and in the event of there being no objections within the period specified, and in the event that planning consent has been granted, the Order be confirmed in the exercise of the powers conferred on the Council by the said Act.

(3) In the event of objections to the Order being received, Cheshire East Borough Council be responsible for the conduct of any hearing or public inquiry.

9 INFORMATIVE REPORT - PUBLIC RIGHTS OF WAY ANNUAL REPORT 2021-22 AND WORK PROGRAMME 2022-23

The Committee considered a report which detailed the achievements of the Public Rights of Way team during 2021-22 and set out the proposed work programme for the year 2022-23.

The Acting Public Rights of Way Manager reported on the work carried out during 2021-22 by the Network Management and Enforcement Officers, Technical Administration Officer, Public Path Orders Officers and Definitive Map Officers. Specific performance was detailed in the Appendices to the report.

The Covid-19 pandemic had created financial pressures due to reduced income and increased expenditure which had resulted in an £108k pressure on the budget which had only been partly covered by a government grant. In addition, it was noted that the team would continue to face budget pressures in future due to continued supplies and services price rises which will have a consequent reduction in outputs on the PROW network.

It was also noted that extreme weather events, coupled with the increased usage during the Covid-19 lockdowns, had resulted in increased reports about the network, damaged bridges, put path surfaces under pressure and caused landowners issues.

In the legal order process area of work, the waiting list for Public Path Orders was at 67 applications due to complexities of current cases, other work priorities and a long-term absence in the team. At the end of the 2021-22 year, the waiting list of Definitive Map Modification Order applications stood at 48, with additional resource having been secured for the following year to help address this.

The Public Rights of Way Team had continued to deliver an excellent service across all functions despite the challenges caused by the Covid-19 pandemic. Additional resources would be required in order to continue the maintenance of the PROW network and services in the future given the pressures outline earlier, therefore business cases would be submitted.

The good condition of the network was highly regarded by user groups, the processing of legal orders continued to serve both users and landowners, and the high standard of response and service from the team as a whole was widely recognised.

The anticipated implementation of the Deregulation Act 2015 represented a risk to the capability of the team to meet their duties of the Highway

Authority with regards to Public Rights of Way. The effect of the Act once implemented would require an appraisal of processes and policies for dealing with Definitive Map Modification Orders and Public Path Orders. Tight timescales would be introduced by the legislation requiring application processing within specified time limits and additionally the processing of Public Path Orders would become a duty rather than a discretionary service.

The Committee congratulated the Public Rights of Way Team on their hard work and achievements over the last twelve months, acknowledged the challenges they faced going forward and offered their full support.

RESOLVED

That the report be noted

10 INFORMATIVE REPORT ON CASES OF UNCONTESTED PUBLIC PATH ORDERS DETERMINED UNDER DELEGATED DECISION

The Committee received an information report on the uncontested Public Path Order cases that had been determined under delegate decision.

One decision had been taken under delegation which related to Town and Country Planning Act 1990 Section 257 for the Proposed Diversion of Public Footpath Hulme Walfield No.3 (Part).

AGREED

That the uncontested Public Path Order case determined under delegated decision be noted.

The meeting commenced at 2.00 pm and concluded at 3.05 pm

Councillor L Crane (Chair)